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VOLUME XXX

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Records of the Suffolk County Court

1671-1690

II

BOSTON

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RECORDS OF THE
SUFFOLK COUNTY COURT

1671-1680

PART II

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RECORDS OF THE
SUFFOLK COUNTY COURT
1671—1680

PART II

RECORDS OF THE SUFFOLK COUNTY COURT 1671-1680

At a County Court held at Boston Aprill. 27th 1675 @

Present

JN^o LEVERETT Esq^r Gov^r
EDW. TYNG Esq^r

W^m STOUGHTON } Esq^{rs}
THO: CLARKE }

Grandjury the same with the former Court

Jury of Tryalls Sworn

m^r James Brading
Joseph Townsend
Nathaniel Williams
John Turner

Sam^o Williams Sen^r
Robert Allin
Edw: Adams
Eleazer Hayes

William Daniel
Sam^o Penniman
John Shaw Sen^r
Nathan^{ll} Baker

[NELSON v. LAKE]

John Nelson Exec^r to the last Will & Testament of S^r Tho: Temple dec^d plaint. ag^t Cap^t Tho: Lake m^r John Richards & m^r John Hull (as adm^{rs} to the Estate of s^d S^r Tho: Temple in New-England) Defendants The persons being called, noe process appearing ag^t the Defendants the Accion fell.

[THAYER v. PAINE]

Richard Thayer plaint. ag^t John Paine Defendant in an action of reveiw or an accion of the case for breach of Covenant for not giving a Deed of houses & Land according to Agreement which action was entred & prosecuted against the s^d John Paine at a County Court held at Boston the 27. day of Aprill in the yeare. 1669. according to Attachm^t Dat. 29:11:74. . . . The Jury . . . founde for the plaint. that the Defendant shall give a firme Deed according to Agreement asserting that hee was the right & true Owner of the s^d bargained pu^rmisses at the time of Signing the s^d Agreement; warranting the same to the s^d plaintiffe his heires & assignes, within one month, or to pay one hundred pounds in mony & costs of Court Fourty eight Shillings 8^d.

[S. F. 1885.3]

J John Pajne of Boston haue sold vnto Richard Thajer of Braintry all the right title & Jnterest of Dam & houses and orchards & other lands, on the North-west of the Riuer monottecote, which some time Did belong to the Iron workes (except only [Hunns] lott and othe^r lotts sold to John Pray & Thomas Thajer, and the pasture, barne & part of the orchard which he the sajd Richard Thayer

Did formerly Clajme by virtue of an Execution served which is hereby prohibited from said Contract) moreouer there is sold vnto the said Richard Thayer^r all y^e land adjoyning [or nigh] the said Dam on the southeast of the said Riuer now vsold, the true value hereof, for this land last mentioned is to be at thirty shillings per acre and the rest first mentioned at the summe of forty fower pounds sterling, and twelue barrells of Good strong Cider, and for the Consideration thereof the said Thayer must pay safe into a boat bound for Boston fowe^r barrells of good merchantable porke, eight barrells of strong Cider, and two barrells of good sound onions presently at summe of twenty one pounds tenn shillings and the rest of the pay wthin one yeare from the date heereof, in good beife porke & strong Cidar and what is not paid at the yeares end he is to pay Interest for, for one yeare and then to make payment as aforesaid. And he the said Thayer shall haue a firme Deed vnde^r hand and seale to Confirme the said bargained premisses vpon the two & twentieth day of this p^resent moneth. Wittness both ou^r hands Dated as abouesayd
29 January 1668

John Pajne
Richard Thayer]

COLLICOT ag^t SHEAFE

Richard Collicot plaint. ag^t Sampson Sheafe Defend^t in an action of the case upon a reveiw hee being assignee of Leiv^r Rich^d Cooke & the assignement confirmed by an act of the Generall Court to the assignes in the behalfe of Rebecca Hawkins wife to Thomas Hawkins & Attourney to her saide husband for withholding her just right of thirds of the houseing & Land formerly Mortgaged to m^r Thacher & m^r Sheafe upon condition that when hee had sold the houseing & land Shee should receive her third part in mony which hee refuseth to doe with other due damages according to Attachment Dat. Aprill 22nd 1675. . . . The Jury . . . founde for the plaint. One Hundred & Fifty pounds mony & cost of Court thirty Seven Shillings & ten pence. The Defendant appealed from this Judgement unto the next Court of Assistants & himselfe principall in three hundred pounds & m^r John Richards & m^r Edward Willis as Sureties in one hundred & Fifty pounds apeice acknowledged themselves respectiely bound to . . . prosecute his appeale . . .

[This case had been heard at the January session, 1674/75 (see above, p. 537). Sheafe appears to have argued that his expenditures on the property relieved him of his obligation to Rebecca Hawkins: the account which he presented at this time, presumably to substantiate this contention, is printed on p. 2, above. John Howlet testified (S. F. 1458.12) that he had bought from Sheafe, in May, 1673, a house and land formerly the property of Hawkins, paying 50*l* down and agreeing to pay 50*l* a

year to a total of 350*l* — a sum considerably greater than the sales price recorded in Sheafe's account.

A fragment of Sheafe's Reasons of Appeal is preserved in S. F. 1458.17. The Court of Assistants (Records, i. 45) reversed the judgment of the lower court and granted the appellant costs. But Goodwife Hawkins did not give up the struggle. She had already petitioned the General Court in connection with this case, to judge from the following pronouncement made by that body in May, 1674 (Records of Massachusetts Bay, v. 8):

In ans^r to the petition of Rebeckah Hawkins, the Court declares, that the assignment annex to her petition is good in law to the party expressed assigned vnto.

A year after the Court of Assistants had found against her, we find the indefatigable goodwife petitioning the General Court as follows (S. F. 1507):

To the Hono^{ble} Gover^r and Magistrates now Siting in the Genll Court in Boston Octo^{ber} 13: 1676

The Petition of Rebecca Hawkins

Humbly Sheweth that yo^r Poore Petition^r in May Last did profer a Petition to the Hono^{ble} Gen^{ll} Court for an heareing and determination of the difference betweene m^r Sampson Sheafe and yo^r Petition^r and the s^d Court did then order and grant an hearing of the Said case at this Honord Court Now Sitting: Now yo^r Poore petition^r humbly requests the favo^r of yo^r Hono^{rs} to Consid^r her poore and Low Condition and to grant her an hearing in this Court: for that she is very poore and cannot by a Course of Law obtaine her just and undoubted Right and desires also to Leave her whole concernes in this matter to yo^r Hono^{rs} to decree what she Shall have from that Estate and Shall finally so Submitt to yo^r Hono^{rs} determinacion herein: So Shall She for ever pray for yo^r Hon^{rs} &c

Rebeckah hkins

The published records of the General Court contain no mention of Rebecca Hawkins at either the May or the October session of 1676. References to two more of her abundant petitions appear in 1678 and 1680 (Massachusetts Bay Records, v. 207, 283); but whether they are connected with her dispute with Sheafe cannot be determined.

While Rebecca was carrying on her own lawsuits with Sheafe, her husband haled him into court again, in April, 1676 (see below, p. 684).]

GILBERT ag^t GREENLEAFE

John Gilbert plaint. ag^t Enoch Greenleafe Defendant in an action of the case for not performeing his engagement of one hundred & thirty pounds according to agreement as by Evidence will more fully appeare & all other due damages according to Attachm^t Dat. aprill

20th 1675. . . . [305] The Jury . . . founde for the plaintife twenty pounds in mony damage or the performance of the Agreem^t by the Defend^t & costs of Court, the agreement to bee performed in a month's time after this day. The Defendant appealed from this judgement unto the next Court of Assistants & himselfe principall in Fourty pounds & John Sandys & John Williams as Sureties in twenty pounds apeice acknowledged themselves respectuely bound to . . . prosecute his appeale . . .

[John Gilbert appears to have been another of the litigious tanners who abounded in Boston at this time. One of several depositions produced when the case was tried on appeal shows the nature of the contract (S. F. 1405.6):

The testimony of W^m Wright Sen^r aged about. 63 yeares saith that m^r Enoch Greenleefe the dyer together with John Gilberd & his wife being at the house of this deponant about the 27th of March last at which time they were agitating about a bargain concerning the house ground &c. of John Gilberts, in the end it was concluded in manner following: namely that m^r Greenleife engaged himselfe to pay to John Gilberd one hundred pounds in Silver, thirty pounds in english goods at mony price as hee could buy at any warehouse & one Rugg & barrell of Molasses & to pay the same as followeth: Namely Sixteij pounds in silver to the honoured W^m Stoughton Esq^r & so to redeeme the mortgage & to pay the same in Fourteen dayes & to pay the other 40^{li} in Silver to pay for a purchase w^{ch} John Gilberd intended at Concord the remainder of the pay John was to haue upon demand & to binde this bargain m^r Greenleife borrowed Five Shillings of this deponent & gaue to John Gilberd in part of pay, on the other side so soon as the Mortgage was paid m^r Greenleefe was to haue possession but John Gilberd to liue in it & emproue it for the workeing up of his ware w^{ch} was agreed to bee one yeare

Milcah the wife of the abouenamd deponent doth testify to all the aboues^d bargain being present at the agitation & conclusion thereof.

Taken upon the oath of both the abouewritten deponents. aprill. 26th 1675. before mee Edward Tyng

affirmed in Court apr^{ll} 27^o 1675 by Cap^t Wright upon his oath taken as Attests Js^a Addington Cler.

S. F. 1405.3

Enock Greenlef his Reasons of Appeell from the Iudgement of the County Court held in Bouston in Aprill last which Iudgment was Granted to Iohn Gilbord Against the present plaintife

1 because y^e now plaintife was then Sewed as appeareth by An Attachement for not performing of An Ingadgement according to Agreement, but nothing thear in expressed neither for what the Ingadgement was nor when it was made & yet y^e Iurys verdyit was Against the plaintife as I Conceau contrary to our law which saith y^t both persons & case Shall bee both thearin Expessed

2 If anny agreement was made between the plaintife and the Defdⁿ it was for house and land, or for nothing at all, if for house & land: then y^e plaintife, must

bee Surely legally Interested in; or possessed of the premises, before the Defftt had anny reason to Demaund pay now the present plaintife could not if A byear be legally possessed, either wthout Deliury; or deed of Saile maide acknowledged and recorded wth neither of these wher donn or offered to bee Donne by the Defftt, now our law Saith y^t no contracts for houses or land Shall bee vallued in law except it bee vnder hand & Seale

3 If it bee Said y^t ther was A verball Agreement and that the p^l^{tt} gaue earnest to binde the bargaine, yet they doe not Say, y^t if the Agreement wher not performed, y^t then the pressent p^l^{tt} Should forfeit twenty pounds nor moor nor lesse, Soe I most humbly conceaue if ther had been anny Sutch agreement made, and not performed, especially abo^{ut} house and land: all the Damaiges I can or ought to Sustaine is the losse of my earnest be cause ther was no bargaine under hand & Saile forth whith:

4 because if anny agreement was made; between the parties concerned it was not mutch aboue A month before the Defft obtained A Iudgement gainst the pressent pl^{tt}ff and all the while hee had y^e use and Improument of the premisses & how the Iury could Justly adiudge mee to pay twenty pounds damages in monneys & cost of Court I wonder at it and thearfore haue reason to Appeale

5 because apon our first treaty of A bargaine, I being A treads man had mutch need to maik use of mutch water, and inquireing of the Defft how his Scituation was furnished thearwth hee tould mee hee had A liueing Springe in his land but Soone affter I goeing whith A friend wth mee to See whether it wher Soe or not (wee found it was not Soe) wherapon I tould him then y^t it was not for my use and would leaue it; and this was but about A week after hee y^e Said Iohn Gillbert Said y^t wee had agreed thus hoping y^t the honesty of my case is euinced I hope this honered court will See cause to reuerse the former Judgement

Enock Grenleif

These Reasons were rec^d 2^d 7^{br} 1675

per Js^a Addington Cler

S. F. 1405.4

John Gilberd his Ansvar to M^r Enock Greeneleifs Reasons of Appeale from y^e Judgm^t of y^e County Co[urt] held in Boston in Apprill Last as Followeth

To his First wherein he seemes to Make his Cheife plea that Judgm^t was Contrarie to Law y^e person and Case both in y^e Attachm^t not Expresed & yet himself Expreseth that it was for not performing an Engage[m^t] and found for John Gilberd against him y^e Said Enock Greenleife which if it had been that some Circumstantiall Error, yet person & Cause were rightly vnderstood & intended by y^e Court Jssue Joyned and preceeded to verdict then not Contrarie to Law but Accordeing to it: Attachm^{ts}: page: 7: sec: 2 but his without Law or reason

To his Second where as hee would Make it doubtfull saying if any Agreem^t wee refer it to y^e Euidences both for what it was & vpon what ocasion & to y^t part where he saith if for hous and Land then to bee Legally intresed or possessed &c it is Answered hee by his owne Agreem^t had in Capassitteted him self vntill y^e sixtie pounds was paid and thereby the Mortgage Cleared as will Euidently Appear by y^e Euidences soe that there is noe ground of pleading y^t Law of Contracts of housis and Land and deeds there for: [til] A performanc of such abeing but to his theirds

3^{ly} where he saith if it be sd there was A uerball bargain it is humbly Conseued that M^r Greenliff[e] is not soe Ignorant as to put it to an if: or to plead to fast & loos when hee haith soe Agreed nor soe Esily [Cheng] when he haith ingeaged pslam y^e 15:4 and that verball Contrancts are not good when truly Euidenced as this and to say he Could but loos his Ernest and not forget twenty pounds it will as before Appear that hee Knew it that if he satisfied not the Sixty pounds According to his Agreem^t the pooer man now defend^t Must pay twenty pounds more for intrest therefore y^e sd m^r Greelif hastened to M^r Theophilus Frerie tendering twenty pounds presant with aforther promis of y^e res[t] in y^e time these things are Euidenced by y^e Said M^r Frerie and m^r Chiuers and y^e dammag[e] by y^e Honrd M^r Stoten Esq^r

4^{ly} whear he haith his if still if Agreem^t it w[torn] not much Aboue A monnth before Judgm^t & which might Justly be performed when Agreem^t Considered for time &c and for haueing y^e improouem^t of y^e premis that alsoe was Agreed too Soe that he needs not wonder at y^e Verdit of y^e Jury 20^{lis} money and Costs of Court & then noe tru reason to Appeale

To his 5 and last which is About wator that haith been Chared and it is wel Known to many of y^e liueing spring & what A place of water it is & that it is not Esily pasable throug y^t Narrow Lane becaue of water the most part of y^e yeare all which Considered the Now defend^t humbly hops A Confermation of former Judgm^t with Addition & Costs Humbly leueing his wrighteous Caus with y^e lord in y^e hands of y^e Honrd Court & Gentlemen of y^e Jury to Judg

John Gilbert

The Court of Assistants (Records, i. 48) reversed the former judgment and awarded 28s 6d costs to Greenleaf.]

DAVIS ag^t DINELY

Cap^t William Davis Attourney to Cornelius Stenwick plaint. ag^t the goods or Estate sometimes belonging to Jn^o Dinely deceased in the hands of Fathergone Dinely as administrator to the s^d John Dinely's Estate Defend^t in an action of reveiw of a case tryed in the County Court in Aprill. 73. wherein judgement was given for s^d Steenwick, but appealed from by s^d Dinely to the Court of Assistants where s^d judgement was reversed to the great damage of the plaint. wth due damages according to Attachm^t Dat. Aprill 22th 1675. The Action being called both plaint. & Defend^t appeared & the Attachment being read the Defend^t pleaded for a NonSute for that none of the Defend^{ts} Estate was attached, which the plaint. not making appeare to the Court, they declared the action fell. The plaint. appealed from this Judgement unto the next Court of Assistants & himselfe principall in 10^{li} Tho: Deane & Edw: Willis Sureties in 5^{li} apeice acknowledged themselves respectiuely bound to . . . prosecute his Appeale . . .

[This is the last entry in the protracted litigation between Dinely and Steenwyck, for the beginning of which see pp. 167-73, above. The Court of Assistants did not allow the appeal.]

COWLEY ag^t HOWARD

Henry Cowley plaint. ag^t Alice Howard administratrix to the Estate of her late husband W^m Howard of Boston deceas^d Defend^t in an action of the case about the bounds of a parcel of Land w^{ch} the s^d Alice Howard possesseth & refuseth to run the Line to devide the Land according to the Limits of Deeds granted & also granted by her saide husband in his life time, though not laide out, which is to the great damage of s^d Cowly with all other due damages according to Attachm^t Dat. Aprill: 22^o 1675. . . . The Jury . . . founde for the Defend^t costs of Court being Fourteen Shillings.

SHIPPEN ag^t BENDALL

Edward Shippen plaint. ag^t Free-Grace Bendall Defend^t in an action of debt of two & twenty pounds eight Shillings & three pence due by booke with due interest & other due damages according to Attachm^t Dat. aprill: 16^o 1675. . . . The Jury . . . founde for the plaint. two & twenty pounds eight Shillings & 3^d in mony & costs of Court twenty Fiue Shillings.

m^r Edw. Shippen appeared & acknowledged hee had rec^d full Satisfaction of this judgem^t from m^{rs} Bendall Feb^r 22: 1675.

J: A: C [306]

WHEELER ag^t PEARS

Joseph Wheeler Adm^r to the Estate of Rebecca Pears deceased plaint. ag^t Samuel Pears Defend^t according to Attachm^t Dat. Aprill 13th 1675. The plaint. withdrew his action.

NICHOLLS ag^t SPRY & CLARKE

John Nicholls the onely Sonn & heire of Mordecai Nicholls late of Boston dec^d plaint. ag^t John Spry & Andrew Clarke Defend^{ts} in an action of the case for withholding houseing & land from him which were formerly Mordecai Nicholls his, & being by order of a County Court at Boston 1664 setled on him & secured from him the saide John Nicholls untill hee comes of age as a part of his portion & also

by a Covenant or agreement before marriage between his late Mother Alice Nicholls & m^r Thomas Clarke late of Plimouth therein the s^d houseing & land is reserved for the s^d John Nicholls to enjoy & possess at the age of twenty one yeares with the profits & all just damages according to Attachm^t Dat. aprill: 21^o 1675. . . . The Jury . . . founde for the plaint. the possession of the houseing & land Sued for or to pay Four hundred pounds in mony & costs of Court. Andrew Clarke appealed from this Judgem^t unto the next Court of Assistants & himselfe principall in £:800 & Anth^o Checkley & Jn^o Sandys Sureties in £:400 apeice acknowledged themselues respectiuey bound to . . . prosecute his Appeale . . .

[An outgrowth of the case of Clarke v. Nicholls, above, pp. 5-9. The Court of Assistants (Records, i. 47) heard the appeal and confirmed the former judgment, awarding Nichols 41s 6d costs.]

KENT ag^t CURVEATH

William Kent plaint. ag^t Ezekiel Curveath Defend^t in an action of debt of twelve pounds in mony due by bill wth interest & other due damages according to Attachm^t Dat. March. 23. 167 $\frac{7}{8}$ The Jury founde for the plaint. twelve pounds in mony damage & costs of Court twenty three Shillings & two pence.

Execucion issued pr^o June 1675.

NELSON &^a ag^t ANDREWS

Phillip Nelson & Jeremiah Jewitt Exec^{rs} to the last will of Joseph Jewitt of Rowley dec^d plaint. ag^t Jn^o Andrews of Boston Cooper Defend^t according to Attachm^t Dat. aprill 19^o 1675. The plaint^s withdrew theire Accion.

MANNING ag^t HALL

Anne Manning widdow plaint. ag^t Ralph Hall Defend^t in an action of debt for nonpayment of Eleven thousand foote of Merchantable pine boards due by bill & due interest & other due damages according to Attachm^t Dat. March 22th 167 $\frac{7}{8}$ The Jury . . . founde for the plaint. Eleven thousand eight hundred & eighty foote of merchantable square edg'd boards to bee dd^r in two months at some convenient landing place in Exetor River or thirteen pounds in mony & costs of Court. £:01:07:0

Execucion issued 7^o Aug^o 75. [307]

MANNING ag^t RAND

Anne Manning sole Executrix of the Last will & testam^t of m^r Richard Parker late of Boston dec^d plaint. ag^t Henry Rand of Malberry Defendant in an action of debt of Seven pounds ten Shillings due by bill & all due damages according to Attachm^t Dat^d February 10th 1674 . . . the Jury . . . founde for the plaint. Seven pounds ten Shillings in provisions at price currant & costs of Court, being twenty two Shillings & six pence.

Execucion issued pr^o June 1675.

LEVERETT ag^t HUDSON

Hudson Leverett plaint. ag^t Cap^{tn} William Hudson Defend^t in an action of the case upon the account to the value of one hundred & one pounds one Shilling & two pence or thereabout due to the plaint. as appeares by his booke with due interest & all other due damages according to attachm^t Dat. aprill. 22th 1675 . . . the Jury . . . founde for the plaint. one hundred and two pounds Seven Shillings & two pence farthing to bee p^d as followeth viz^t 75^{li} 11^s in provisions at price currant & £:26:16:2¼ in mony which is the ball^a of Acco^t with the interest Sued for at 5^{li} per Cent & costs of Court. The defend^t appeal^d from this judgement unto the next Court of assistants & himselfe principall in £:204. Daniel Turill Sen^r & Jn^o Williams as Sureties in £102. apeice acknowledged themselves respectiuey bound to . . . prosecute his appeale . . .

[Following are two of the numerous documents that Leverett brought into court to prove Hudson's indebtedness to him (S. F. 1399.11, 8):

m^r Leveret. S^r bee pleased to help this bearer Esther Farenworth to Sixteen Shillings in goods at yo^r Shop on the Accoumpt of yo^r Loving Freind.

Will^m Hudson

this: 17: 10 m^o (61)

own^d in Court. 27. 2^{mo} 75: Attests J: A: C
Endorsed.

p^d Easter Farnworth for yo^u

10 y ^{ds} ½. of lace. at. 3 ^d	0:02:07½
1. y ^d ⅔. of cambrick at: 10 ^s y ^d is	0:11:03
2. y ^d ½. red ribbon. 6 ^d	0:01:03
½. m. large pins	<u>0:00:10</u>

. . . true Coppie . . . Js^a Addington Cler

Cosen Leveret J pray let my daughter Hannah Richards haue what Shee want if it bee to the Summe of Fifty Shillings or three pound on the account of him that is yo^{rs}

Will^m Hudson

27: 10: 61

Owⁿd in Court by Cap^t Hudson. 27. 2^{mo} 75. Attests J: A: C

Endorsed.

p ^d yo ^r daughter Hannah. 1. January. 1661.		
4. $\frac{3}{4}$. pennistone at. 3 ^s 6 ^d		00:16:07. $\frac{1}{2}$
$\frac{3}{8}$. of Flannill at .2 ^s 6 ^d y ^d		00:00:10
2. y ^{ds} Searge. 4 ^s 6 ^d		00:09:00
To. 1. y ^d galoon. 3 ^d — 3 scanes silk		00:00:06
To. 1. y ^d $\frac{1}{2}$. 8 ^d ribbon		00:01:00
To. 1. y ^d $\frac{1}{2}$ manchest ^r 1 $\frac{1}{2}$. yd		00:00:02 $\frac{1}{4}$
To. a paire bodies		00:02: —
To. yo ^r wife. 1. yd. Nayle Say. 7 ^s	}	01:03:07 $\frac{1}{2}$
To. 2. y ^{ds} $\frac{1}{4}$. at. 7 ^s		
To. 2. y ^d . $\frac{1}{2}$. broad ferrit. 7 ^d y ^d	}	00:01:05
To. 2. y ^d Narrow. 4 ^d y ^d		
To. 4. y ^d dowlas at. 22 ^d		00:07:04
		<hr/> 3:02:05 $\frac{1}{2}$
. . . true Coppie . . . Js ^a Addington Cler		

A part of Hudson's Reasons of Appeal (S. F. 1399.3), a mutilated document, follows:

First what J Receaued Any way of him was not vppon my desire of Any Credibt from him but to take vp what I Could by degrees to satisfie his debts due to me as woold haue Apear[ed] by the date of my acc^{ots} which was then Redy In the Court for to show[e] which if his acc^{ots} & mine had bene fully Compared Jt woold Easily haue Apeared that he was greatly in my de[bt] had he attended according to his bond of Arbitration . . . & takeing Aduantages Caused a prosecution att the County Court & J suppose g[iues] me [j]ust ground of Apeale . . .

He goes on to say that several of the articles which Leverett alleged to have been furnished to him were delivered to others.

The Court of Assistants (Records, i. 48) confirmed the former judgment and awarded 43s 10d costs to Leverett.]

JAY ag^t WOODMANSEY

Thomas Jay of Hingham Carpenter plaint. ag^t John Woodmansey of Boston Defend^t in an action of debt to the value of three hundred eighty five pounds two Shillings & eight pence or thereabouts due to the s^d Thomas Jay for severall parcells of mony, ninety one pound for a Warehouse by apprizement, timber, plancks, boards & goods as

appeares by the s^d Thomas Jay's account with all due damages according to attachm^t Dat. aprill: 21^o 1675 . . . the Jury . . . founde for the plaint. three hundred Eighty Five pounds two Shillings eight pence to bee paide as followeth. viz^t £:10:5:0: in mony, Forty Five pound in Fish at price currant & the remainder in provisions at price currant & costs of Court: the Defend^t appeal^d from this judgem^t unto the next Court of assistants & himselfe principall in £800. Cap^{tn} Sam^o Scarlett && Joseph Rock Sureties in £400 apeice acknowledged themselves respectiuey bound to . . . prosecute his appeale . . . [308]

[See Woodmancy v. Joy, p. 129, for the beginning of this litigation, and the audits of their accounts on pp. 145, 149. There is a long account in S. F. 1433.8, from 1659 to 1667.

S. F. 1433.3

Jn^o Woodmansey his Reasons of appeale from y^e Judgm^t of the honord County Cou^rt held at Boston in Aprill last, to this honord Court of Assistants in the case Depending betweene Tho: Jay & himselfe. vizt:

First. The action being an action of accompt (or of Debt appearing by accompt w^{ch} is all one) I app^rhend (wth all humble submission) that the then plaintiffe ought to have produced a booke, or bookes, out of w^{ch} his p^tended accompt was taken, to the end they might have beene examined, & Compared in Court, or by an audit appointed thereto, before he had sworne to it, or elce that he should have made some other equivalent prooffe, to each article disowned by mee, all which was required of mee & done to effect, before I Could obtaine Judgm^t against him, therfore I appeale,

2^{ly}: The same action (without any materiall difference hath beene Comenc[ed] against mee by the Pl^t divers times, before now, Especially att the County Cou^rt in July 1672 as may appeare by the records, & by the Summons here extant, where the then pl^t tendred his oath to his then p^tended accompt, w^{ch} was somewhat different from this, the Court then demanded his booke that it might be compared & audited, his answer was that his books were too big & too heavy to be brought into Court, meaning as he explained himselfe, the worke he had done for mee (w^{ch} was then mentioned as one article in the attachm^t & Summons, though not now) in Fine he owned he had noe other bookes, whereupon the honord Court then saw cause to refuse his oath, to his p^tended accompt, soe that his actions Could not proceed, which occasioned mee to make a motion in Court, that men might be chosen in Cou^rt & appointed to vei^w what should be p^rsented against mee by him, I promiseing to allow whatsoever he could prove, or I Could owne, and men were accordingly appointed, & it is not my Fault that it hath not beene attended, whatsoever the Pl^t injuriously p^rtends, for I often spake to Huegh Druery, who was one of them to promote it, being earnestly desirous to attend the issue in that or any other honest way, & I writt earnestly to the Pl^t to that end, a Coppy whereof is here extant, Now may it please this honord Court & jury to consider, that he being then not permitted to sweare soe

dangerous an oath, to his then p^tended accompt, & the case being the same now, I might well expect the same issue, therefore I provided noe other defence, which I could plentifully have done if I Could have foreseene such an alteration Therefore I Appeale —

3^{ly} The plaintiffs p^tended accompt to w^{ch} he hath sworne, consisting of twenty & eight articles, hath not any date to any perticuler charged therein Save only to an apprisem^t of one warehouse at Ninety one pound, w^{ch} I ever owned & gave him Credit^t for, & a wharfe veived by Deacon Allin and Huegh Drury upon his misinformation, all the other twenty & Six articles though very considerable summes many of them, & of Fourteene years standing & more from the first, being without dates, & not taken out of any booke but his owne treacherous Memory: it may well be suspected that he hath taken an unsafe oath to my great p^rjudice, therefore I appeale,

4^{ly} All the perticulers in difference, are noe otherwise proved then by his owne oath, without booke or date, which if it should passe for Currant, he or any other of like conscience may sweare themselves into an estate att pleasure, & of what dangerous consequence, such p^rsident may be to others as well as to my selfe, I humbly present & leave to the Serious consideration of this hono^d Court, As for his eight First articles, together with the thirteenth, ammounting to above two hundred & thirty pounds & part of some other articles to the value of Fivety or sixty pounds when Finished, these I ever owned, both in Court & elsewhere, but was never in debt to him for any of them because he was alwayes overpayd beforehand, as will appeare by my account which I gave him, which accompt he putt into the Court (though much corrupted since he had it) except his want of dates to his charge darken the case, which if it doe, it is evident that I have proved my charge First, but I could never imagine, that upon my owning the greatest part of his p^tended accompt the jury would give him the rest, w^{ch} I never owned, nor he hath proved, I doe not beleive that was the Courts intention in permitting his oath, But there are in his p^tended accompt, twelve or thirteene articles which I utterly deny, as being either not done at all, or not done for mee, (besides divers things, being vallued by himselfe only, are over-rated very much, as the bridge & belconie, w^{ch} are prized by him at more then three times the worth of what he did towards them, & other things charged more in quantity then were done for mee, as wharfing &c, or received by mee, as planke &c And though it is difficult to prove Negatives, I am sufficiently able to prove divers articles in his p^tended accompt to be false, I instance in the eleventh article of twenty & Six pounds, for part of a frame of a dwelling house, besides six pounds, & other summes about the same house, whereas I never sett him aworke about it, but can Fully prove, that he hath owned to others what he hath often told mee, vizt that he was sett aworke & payd by Captⁿ Olliver for it, & his sonne Joseph Jay who soe earnestly importuned the Countey Court that his Father might take this daungerous oath, & alsoe in his owne oath doth darkely mention this part of the frame of this house, he was one of that jury who found the whole house to be Captⁿ Ollivers & not mine, therefore I am necessitated to appeale,

5^{ly} I Suppose it will appeare, that the plaintife hath dealt fraudolently in the management of this action, not only in introducing papers into the Court & to the jury, not sworne, nor concerning the case, & yett the Credit^t of such persons as have thereunto subscribed, may have some influence upon a Flexible jury, as viz^t Captⁿ Davis his note, in which alsoe there is a mistake of the person who

said there was noe record of the Court order, for it was not I, And alsoe there is a note under the hands of Deacon Allin & Hugh Druery, who only declare what the then pll^t told them, But cheifly in that accompt which I gave to Thomas Jay some yeares since, att the end of which I gave him part Creditte soe far as was then cleare, but he hath not only altered that Credit upon my sayd accompt, & soe falsified it as I conceive, but added many perticulers to it according to that p^rtended accompt to which he hath sworne though not in the same method, nor contenting himselfe wth the same summe by which I feare he might somewhat delude the jury, For one of them told me, that he thought I had given him all that Creditte, though since, he hath forgotten it And to evince what I here assert to this hono^rd Court, I have by the Favour of the hono^rd Countey Court obtained the originall paper, putt in by the then plaintiffe, (haveing left a Coppy thereof upon record) in which the addition appeares to be Will^m Leatherlands hand, & by Thomas Jay his order as he the sayd Leatherland told mee, all which I humbly Crave this hono^rd Courts serious consideration of, that such irregularities may be p^rvented for the Future

6^{ly} Because the jury hath given the then pll^t his whole p^rtended accompt in w^{ch} there are divers articles that are not exprest, nor can any way be intended or included in the attatchm^t, which I humbly conceive is contrary to law, & to the Custome of our hono^rd Courts, as for instance, they have given him Fourty & Five pounds to be payd in Fish at price Currant, whereas the attatchm^t mentions noe Fish, neither was I ever engaged to pay him any Fish, Jts true I received of m^r Nicholis Davison of charlestowne, about thirteene or Fourte[en] yeares since, Fourty & Five pounds in Fish, att two payments upon the accompt of Thomas Jay, & by his order, which was in pt of payment, for the great wharfe which he built at Charlstowne for the sayd Davison, and for which I then gave him Creditte, it being in part of what he then owed mee, and he requesting mee to take it in payment for goods, because he Could not otherwise dispose of it to his content And alsoe there are divers articles for worke which are noe way Comp^hended in the attachm^t, nor yett true in themselves one of which is Fiveteene shillings for helpe in the Cellar, when my wines were oversett, I had noe wines there, but the Cellar was hired by m^r Rob^t Gibbs, & the wines were his, Now the Cooper haveing let the water into the Cellar, through his forgetfulness there was damage & Tho: Jay & his sonnes, being thereabout at worke, were called, & did helpe them a while, & had their Fill of good Mallego wine for their reward, but I sett them not aworke, neither was I any way Concerned in the matter, Further then to know, how this damage came because the Cellar was hired of mee, This & many other more considerable articles for worke, are in that p^rtended accompt, & given to him by the jury, which I humbly conceive is illegall, & a great errour in the jury, And they had alsoe at First given him three or foure pounds more then the summe mentioned in the attatchm^t, which I simply Complaining of, the hono^rd Governo^r was pleased to say that was a sufficient reason of appeale, whereupon they were sent out againe, & they rectified only that one errour, leaving the rest to their issue, All which I humbly p^rsent to this hono^rd Court & jury as the grounds of my appeale from the Judgm^t of the hono^rd Countey Court, which gives him more, then I recovered of him, although I can make it appeare he is indebted to mee, to ballance our accompts the best part of a hundred pounds.

yo^r humble Appeallant

Jn^o Woodmansey

These reasons of Appeale were delivered by John Woodmansey into the office this Second of 7^{br} att about 3 of the Clock & received per Js^a Addington: Cler.

Vera: Copia Attes^{tr} per Edwd: Rawson Secret

S. F. 1433.4

Joseph Joy Attorney of his father Thomas Joy [*torn*] answer to John Woodmonseys reasons of Appeal soe cal[d]

first J doe humbly conceive that all the reason contained in his pape[r] called Reasons might have bin comprized in a very small volume the which he hath made to be a wholl sheet of paper full written & therby (as J humbly conceive) hath not prosicuted his appeal according to Law, which sayeth title Appeals he shall breifly vnder his hand give in his reasons & if his be breif J know not what is long & therefore doe intreate it to be determined by the Bench whither he hath not forfeited his bonds for prosicution of his appeal before the cause goe on. but if J must answer J say.

To his first Jt being an Action of Accoumpt or debt vpon Accoumpt &c. he taketh the boldnes to declare his Apprehensions thervpon & thought the Court & Jury would have bin regulated therby but he was mistaken in his apprehensions & there J leave him

To his second J say he is therin soe long on purpose to puzzle both Court & Jury (as J Conceive) & is all a new plea not made in the other Court & therefore ought not to come here & that is my answer.

To his third J answer that every Article of my charge is yet obvious to wit my severall workes done & if J have sworn any thing false he may take A remedy legally & God forbid it should prove soe

To his fourth that by the same practice of swearing any may swear themselves into an Estate J answer he may & that very honestly too the works appearing & J hope J might set a price theron & y^t lawfully & swear thervnto as the now plaintiff might vpon any of his Goods sold & delivered & if J have wronged him by setting a price too high as he may have done to others there is a Law to punish vs therefore. & after conviction therby he may have a just cause of Review of the Case. And w^t he sayeth of A dwelling house is falacious it doth consist of two double houses built at two severall times.

To his fift tedious story J say if it were true w^t he sayeth what J did with a paper he sayeth he gave mee & calleth it an Accoumpt sure it was my owne & J might doe with it what J listed & it was nothing materiall to my Action for w^t J had Judgment for is evident to all seeing eyes to wit any buildings & his busines was to have proved payment & nothing els as J thinke

To his sixt J say the jury gave noe more then was proved & which J now expect to have. & the now plaintiff did not then disprove any thing & he is willfully mistaken in saying the Attachment mentioneth noe fish. it doth mention other Goods as in Accoumpt & the Acc^t mentioneth fish. & he now owneth the receipt of fish of mine. & why should it not be given mee since J am not in his debt And if he had found himself agreived at any thing or proceeding in the former Court he might have had his Action or Actions against mee at July Court last but he was conscious that he had noe just ground therefore. soe leaveing it to your wise Consideration as God shall direct you to doe & rest your humble

servant Joseph J Joy
his markes

The Court of Assistants confirmed the former judgment and awarded costs to Joy. Thereupon Woodmaney "in open Court declared that he Attainted the Jury & declared he doubted not but he would proove error" and filed bonds to the amount of 500*l* to "prosecute his Attaindure at the next Court of Assistants." There is no record extant of this prosecution. Records of the Court of Assistants, i. 45-6.]

JAY ag^t WHARTON

Joseph Jay as Assignee to his Father Thomas Jay of Hingham Carpenter plaint. ag^t Richard Wharton of Boston Merchant Defend^t for withholding a debt to the value of twenty five pounds in money or thereabout due for land in Boston according to the apprizement of m^r John Saffin m^r John Sunderland & Deacon Henry Allen as by a writeing bearing date the .12th day of July. 1673. Subscribed by them doth more fully & largely appeare with all other due damages according to Attachm^t Dat. Aprill: 21^o 1675 . . . the Jury . . . founde a speciall verdict viz^t that if the mony in m^r Rich^d Whartons hand extended upon by the Marshall bee legally s^d to bee m^r Jayes though not deliver^d to him then wee finde for the Defend^t costs of Court; but if not wee finde for the plaint. twenty two pounds ten Shillings in money damage & costs of Court. The Magistrates on consideracion of this verdict declare for the plaint. the Defend^t appealed from this judgem^t unto the next Court of Assistants & himselfe principall in £.44. Sampson Sheafe & Tho: Bendish Sureties in £22. apeice acknowledged themselves respectiuey bound to . . . prosecute his appeale . . .

[Attachments, appraisals, assignments and bill of costs are in S. F. 1376.1, 3, 5, 6. Wharton's Reasons of Appeal have not been preserved. Joy's answer (S. F. 1376.4) follows:

Joseph Joy assignee to his Father his answer to m^r Richard Whartons Reason of Apple from the Judgm^t of the County Court held in Boston Aprill 27th 1675

First whereas he alleadgeth that it was not made Evident that Joy or any authorized by him did legally alienate the land mentioned in the Attachm^t

Answ: m^r Wharton owned in Court the apprizm^t of the land giuen in vnder the hand[es] of Deacon Allin And m^r Jn^o Saffin and m^r John Sunderland w^{ch} was a sufficient Evidence and needed noe further prooffe And the said Allin Saffin & Sunderland awarded the present plantiffe to pay the money mentioned in the attachm^t And if any man haue land or other estate deliuered vnto him by Execution such deliuey makes him suffiently capable to giue a legall Conveyance as the land in question was And therfore not to trouble the Court wth a long preamble

the defend^t doth humbly conceue this hon^d Court & Jury will see noe cause to reverse the Judgm^t of the former Court but rather to Confirme the same The Issue whereof hee leaues to the wisdom & prudence of that hon^d Court and subscribes himselfe y^r humble Ser^t

Joseph Joy

At the Court of Assistants (Records, i. 48) the Jury reversed the former judgment and awarded Wharton 52s 1d costs.]

BALSTON ag^t ATWATER

Jonathan Balston Senio^r plaint. ag^t Joshua Atwater sen^r Defendant in an action of the case for nonpaiment of thirty pounds one Shilling & nine pence in mony due for three hogs h^{ds} of Sugar sold the s^d Atwater in the yeare. 1671. & all due damages according to attachm^t Dat. aprill 22^o 1675 . . . the Jury . . . founde for the plaint. thirty pounds one Shilling & nine pence in mony damage & costs of Court. the Defend^t appealed from this judgem^t unto the next Court of Assistants & himselfe principall in £60. Benjⁿ Gibbs & Jeremia Dummer Sureties in £30. apeice acknowledged themselves respectiue bound to . . . prosecute his appeale . . .

[Atwater's Reasons of Appeal (S. F. 1411.2) offer little of interest, and he withdrew the action when the appeal went before the Court of Assistants (Records, i. 44); but the following document (S. F. 1411.3) seems worth preserving, if only for its spelling:

To the Honored Corte of Assist^s Sitting in Boston sept: [75]

Johnathun Bolstons his Answer to M^r Joshoway Atwaters Reasons of Appeale

[*Torn*] where the nou plantiue Sayth that the then plantiue [*torn*] no Just Ground of Axtion: the then plantiue did euedent Ley ma[ke] relpor to the Corte and Juery that he had Just Grounds of Axtion and dusnot question but this Honored Cort and Jurey will find the same: if th[ey] du but sere[yo]sley Considur the then plantiues Acompt and oth which the nou plantiue Cols a Contridixion: for the a Compt y^e then plantiue gaue in was tru: for In his forst A compt he did omit the shuger be Cos: he: Rekind[d] he had bin payd forit but after wards M^r Atwater Recouers that mon[i] which the nou defendant had Reseued for the shuger: sothat thou y^e nou defendant had no grounds of Axtion be fore M^r Atwater had [*torn*]d his moni bak again: y^t nou he hath Just Grounds: for noue [*torn*] not payd for his shuger nor: nauer shud if he had not sued for it [*torn*] I hope there is no man but will say that it is Reson that if M^r Atwater Hes his moni bak a gain which moni he payd for the shuger, but that I shud be payd sum way for my shuger: if y^u mind his a Compt you will find that he Charges all the moni that Eauer the nou defend^{nt} Had of Him but y^u will not find a word of the shuger there soe that I think It would be a hard Case If I must a loue for all the moni I had of him and he haue 3^{hb} of shuger of me and a loue me not on pene as per his a Count will a per. he oned he had the shuger in priuit as is proued:

and All a Long in Cort he oned he had the shuger yet he giues in his A Compt and swares to It: and nauer taks ani notis of the shuger and yet he Cols my a Compt fols: but His not giuein me Credit for the shuger and y^t swares it is a tru a Compt which as I Humbley Con seues maks his A compt and oth to of Litill walle if not all to Gather fols: be sids all this M^r Atwoter and my selfe wone Came to a reken- ing quickley after this shuger was dele[uer]d and then we set this moni which M^r Atwotter hes sene Recouered bak of for the shuger and thar for when we Rekind we brot nither to a Compt and them he oned he oued me 11^{li} odmoni as will aper by my Accompt: and I wonder that M^r Atwoter shud when we Re- kind [worn] be willing that this moni shud go for the shuger and [after] wards su for it a gaine and nou is not willing to a loue me anithing for it but I hope the Cort and Jurey dus Ritley undestand the Case as the former Cort did thar for I shall say no more but subscribe myselfe as I [am] y^r honers Humbill Saruant
Jonath[an] B[als]ton]

SALTER ag^t CHECKLEY

Jabez Salter plaint. ag^t Anthony Checkley Defend^t in an action of the case for interrupting the s^d Salter in improvem^t of his Land & trespassing upon it & incumbring of it & claiming propriety in it in so doing defameing the s^d Salters honest title of inheritance which hee hath honestly bought & paide for which is to the s^d Salter great damages with other due damages according to attachm^t Dat. aprill 15th 1675 . . . [309] the Jury . . . founde for the plaint. one Shilling damage & costs of Court. the Defend^t appealed from this Judgement unto the next Court of Assistants & himselfe principall in £5: Benj^a Gibbs & Jn^o Sandys Sureties in Fifty Shillings apeice acknowledged themselves respectiueley bound to . . . prosecute his appeale. . . .

[One of the most important and progressive laws passed by the Massachusetts Colony was the "Act for the avoyding all Fraudulent Conveyances," which required the acknowledgment before a magistrate and registry with a clerk of court, of deeds, mortgages, and other conveyances of real estate. It is to this act of 1641, as printed in the General Laws and Liberties (1672), pp. 32-3, that Checkley refers in his Reasons of Appeal (S. F. 1403.2).

These lengthy Reasons set out two main defenses: — first, Salter has no title to the land in question; secondly, if he has title, then he and Checkley are tenants in common, and Salter has no cause of action for trespass against his co-tenant.

On the first ground, Checkley declares that the General Court ordered part of Nathaniel Patten's estate divided between Benjamin Bale and

Thomas Patten, and that Bale and Patten entered into articles of agreement accomplishing this partition, each granting to the other his respective part. (This agreement, in S. F. 1403.5, executed 14 December, 1674, shows that part of Bale's share embraces land leased by Nathaniel Patten to Salter.) Checkley claims title under a deed by Thomas Patten including the land in question, which was made under an irrevocable power of attorney from his father, John Patten, the real owner of the land set off to Thomas Patten in the partition. (See *Patten v. Dyer* and *Patten v. Winsley*, above, pp. 373, 377.) As for Salter's title, Checkley begins by insisting that the deed to Salter from Bale includes only the premises leased to Salter by Nathaniel Patten before his death, and continues:

The Land in controversy is not in that lease nor was it in the tenure & occupation of Salter therefore hee hath no title to it, let him shew his lease & there it is not contained — & for possession I had it before Salter — my Deed was acknowledged & Recorded the 4th of January 1674. & hee had livery of Seizin the 9th of the same Jan. which is full. 5. dayes after & his Deed not acknowledged untill the 25th of Jan. which is 20. dayes after mine, Now per o^r Law a title is not good untill either possession is given or the Deed acknowledged & Recorded. See Law. title Convayances Deeds and writings Sect. 4. hee hath no title at all for hee it more or Less then 17½. foote broad or Less then 134. foote in length; yet it is neither more or less then what is contained amply in the Lease & what was in the tenure & occupation of Salter — heres nothing at all appears by the Lease & the possession & title of the land in controversy is in Anthony Checkly's hand yet hee cast, which J conceive is a fundamentall Error in the former Jury & a Sufficient ground for the reversion of the Judgement.

However, if the land in question is included in the boundaries stated in his deed from Bale, "it is more then hee could doe, it was none of his to Sell," because this land was not set off to Bale in the partition agreement, the measurements determinable in accordance with which Checkley discusses in detail. He appeals to legal principles still much used in 1932:

It is a principall in Law & Reason that all Covenants Deeds & obligations shall bee taken in the best Sence for the granto^r or obliged — Thomas Patten is granto^r to Benⁿ Bale of this Strip of land — Jf Benⁿ Bale should Say the articles must bee interpreted in the best Sence for mee J am the Grantee relating to this Strip of land, therefore J will haue as much land as can bee called a Strip running upon a direct line &c. as is expres^t in the articles taking them in the largest Sence for mee then might hee take away my 22. foote & Leaue mee but 4. inches in the reare — this would bee thought by all men irrationall; Jf J promiss a man a peice of bread will hee haue the Major part of a Loafe is not my promiss performed; although J giue him but ¼. of a loafe So is the case here Benⁿ Bale is not denied his Strip of land but hath it — avoiding all extreams hee hath as much & more in the reare proportionable to his front as J haue — As for Jn^o Holbrookes Testimony J shall onely Say this that hee Sweares onely according to his best judgement & understanding w^{ch} in my judgement and understanding is no testi-

mony & of no value; testimonys must bee positive; again words are determined by writing there was another agreement in writing betwixt the verball agreement & these articles w^{ch} m^r Addington had for direction to draw these articles by — & Jn^o Holbrooke was in company when the articles was firm'd — J can call that oath no bettar then a vaine & unsafe oath — J hope it appears the land in controversy is not Jabish Salters but Anthony Checkley's — Benⁿ Bale never sold it him nor could hee Sell it him, it was not his to Sell, the articles never gaue him 17½ foote in the reare.

The second and alternative ground apparently rests on the assumption that the partition agreement between Bale and Thomas Patten failed to dispose of a strip between the portions set off to each other. Hence Salter and Checkley, as their respective grantees, became like them co-tenants of the undivided strip.

Jf so then wee was tenants in common how then could J trespass upon him by Setting a few boards upon the land in common especially considering how little the corners of them stood in the land hee claimeth & how much they stood within the bounds of my own Deed & was movable things & not set up for boundaries, there being no devision as hee pleaded & indeauoured to proue — hee should haue Sued for a devision & could not in my apprehention Sue as hee doth for interrupting the s^d Salter in the improuement of his Land for hee might haue improved mine & his own too if hee had any there & how could J trespass upon his ground & incumber it when J neither hindred him from Setting anything in my ground nor exceeded my ground that J had a Deed for, but my boards was within it; or, how is his title defamed — So that not one term of his attachment is true.

J hope the Honoured Court & Jury haue a right understanding of the case & will plainly See how injuriously Salter hath acted by commencing such a vexatious and chargeable Sute against mee for an in considerable bit of land w^{ch} is not worth the fourth part of the charges expended in law about it & might haue bin issued by Bale & Patten without this trouble & charge as J tendred him the s^d Salter & intreated him to Stay till they came from Sea — Not to trouble the Court & Jury with impertinencies J leaue my case to you & Rest

Yo^r humble Servant

Anthony Checkley

These Reasons were rec^d 2^d Septemb^r 1675.

per Js^a Addington Cler

Salter, in his Answer to Checkley's Reasons of Appeal (S. F. 1403.4), replies to the first ground in part as follows:

... to proove his first reason he gives three arguments that Salter had noe title. 1st because Salters title gives him noe more then he had by Lease before, and that the appealant harps much upon, as if the title of the land lay grounded upon the Lease, but surely the appealant understands better, therfore the defendant can not understand why he should lay soe much weight on the Lease seeing the defendant never sued the Lease as a tenent nor made any use of his Lease in the Court, but only got and proued his title by his deed, his buts and bounds being clearly and firmly expressed in his deed: but if the Lease would any way helpe the appealant as it can not, yet it is too late to bring it in this action because

it was not made use of in the former Court as the plaintiffe very well knows. 2^{dly}. That himselfe had possession before Salter: but of what? not of Salters title: if he had possession of his owne who doth hinder him. and whereas he lays soe much weight on the antiquity of acknowledgment of a Deed, its true the first acknowledgment with record must take place: but in what case? not in such a case as this: if Salter had derived his title from Patten his argument might have had some weight in it, but Salter derived his title from Bale's which is an other man, and the appealant had noe deed from Patten before the division therefore the law about the first recording can take noe place here. 3^{dly}. from possession. the appealant saith he had possession of this land in contraversie before Salter: if he had it seemes by the virdict of the Jury and Iudgment of the former Court that he possessed that which was not his owne and farther the appealant is very much mistaken in soe saying for Salter had possession of said land a long tyme before. 4^{thly}. The appealant is pleased to say that Salter's title was not legall, because his deed was not acknowledged before the appealants, but what is that to this action? but if he meanes as he seems to say (or else he speaks not to the case) it was not acknowledged nor possession given before the sute in law herein he is very much mistaken for Salter had his before as will appeare by his deed:

He comments thus on Checkley's argument that a deed should be construed against the grantee:

Againe the appealant saith that if the line be arbitrary, how it should take it of in law, and by good reason be interpreted in the best sense for the Granter and that Patten was the Granter. Answer. But if the appealant consider yet againe he will have reason to thinke that Bales was (if any one) a granter for Bales was possessor of all and that by a County Court act, but after, it pleased the Generall Court to settle Patten in the halfe of it, and themselves agreed on division, therefore Patten noe granter: but for the promis[e] of a peece of bread the argument were good if all the loafe had bin his owne, but the appealant may consider that this instance doth not reach this case for Bales had as much right unto the loafe as Patten.

Salter then replies to the second ground, that of co-tenancy:

2^d Reason. If the land had bin Iabez Salters as to the title, yet he had noe ground to sue me, because it was not divided, therfor[e] tenents at will and then noe trespasse. Ans: The appealant is much mistaken in soe affirming, for Salter denied it in Court, 2^{dly}. whereas the appealant saith that Salter should have sued for division and not for trespasse. Ans: Salter did not see reason to goe to the appealant for advice how to state his action. 2^{dly}. as for suing for division Salter nether did nor doth know that he ether hath or had any land in partnership with Checkley, for the land was divided before by articles, and where as the appealant doth blame Salter soe much for puting him to soe greate a charge in law and that the land was not worth neere soe much as is spent in law, Surely the appealant may as much blame himselfe as Salter for if he had let Salter enjoy his title the action had not proceeded for Salter used all faire meanes and tendered to leave it to the Townesmen to avoide trouble and had rather bin a looser then to goe to law, the appealant might have let his board stood till this day if he had yeilded the title but he denied it as plainly appeares all alonge, by which it appears that

Salter did not sue for trespasse only but to keepe and maintaine his title. . . . The premises considered I leave the it to the wisdom of the Court and Iury to determine whither the reasons of Appeale or my answere to them carry in them most weight and remaine

yours and the truth servant

Jabez Salter

There are depositions respecting the dimensions of the disputed land, in S. F. 1403.5-9.

The Court of Assistants (Records, i. 47) confirmed the former judgment.]

EDSELL ag^t TRAVIS

Thomas Edsell plaint. ag^t Richard Travis Defend^t in an action of the case for withholding a debt of Nineteen pounds or thereabouts due for two yeares & three quarters rent of a house hee had of the s^d Edsell, the which rent hee s^d Edsell paide m^{rs} Hanniford for at Seven pounds a yeare, which rent hath been due since the yeare 1666. with due interest & all other due damages according to Attachm^t Dat. Aprill: 22^d 1675 . . . the Jury . . . founde for the Defend^t costs of Court being Fourteen Shillings

Execucion issued aug^o 21^o 1675

[There had already, in 1672, been a suit between Edsell and Travis over the rent of this house. Papers for the earlier case are in S. F. 1143.]

MAY ag^t SUTTON

George May plaint. ag^t Richard Sutton of Reding Defend^t in an action of debt of three pounds ten Shillings in mony due by bill & all due damages according to attachm^t Dat. February 6^o 1674 . . . the Jury . . . founde for the plaint. three pounds ten Shillings in mony & costs of Court being 27^s 2^d

Execucion issued pr^o June. 1675.

ATWATER ag^t PEARSON

Joshua Atwater plaint. ag^t George Pearson Defend^t in an action of the case upon a reveiw of a judgem^t granted ag^t the s^d Atwater plaint. at a County Court held at Boston the 28th of Aprill. 1668. for costs of Court to bee paide unto the Defendant in the s^d case which was then the aboues^d Pearson & the s^d costs of Court being three Shillings & ten pence & other due damages according to At-

tachm^t Dat. the 17th of Feb^{ry} 1674 . . . the Jury . . . founde for the plaint. Fifteen pounds one Shilling ten pence in mony damage & costs of Court being 27^s 4^d

Execucion issued May: 31^o 1675.

SCARLETT ag^t LONG

Cap^t Samuel Scarlet plaint. ag^t Joseph Long of Dorchester Defend^t in an action of the case for withholding a small boate of his that was taken or went adrift from his wharfe about the Latter end of Septemb^r 1673. & ever since or at Least since May last hath kept her in his Service although Shee hath been demanded by the aboues^d Scarlett both in May last & upon the 25th day of January Last yet notwithstanding hee hath detained her & hath no way acted according to Law & all due damages according to attachm^t Dat. March 5^o 167⁴ $\frac{1}{2}$ [310] . . . the Jury . . . founde for the Defend^t costs of Court being twenty Five Shillings Six pence, the plaint. appeal^d from this judgem^t unto the next Court of Assistants & himselfe principall in £:5 m^r Jn^o Richards & FreeGrace Bendall Sureties in Fifty Shillings apeice acknowledged themselves respectiuey bound to . . . prosecute his appeale . . .

SALTER ag^t MANNING

Jabez Salter plaint. ag^t Nicholas Manning of Salem Gun Smith Defend^t in an action of the case for withholding or detaining an anvill of the plaint. after legall demand, the s^d Manning pretending it is his own which is to the pl^{ts} great damage according to Attachm^t Dat. 10:12^{mo} 1674 . . . the Jury . . . founde for the plaint. that the Defend^t deliver to the plaint. his anvill at Boston within a monthes time with three pounds in mony or ten pounds in mony & costs of Court three pounds two Shillings.

Execucion issued May 31^o 1675.

EDWARDS ag^t STONE

Thomas Edwards plaint. ag^t Daniel Stone Chyrurgion Defendant in an action of debt for withholding the Summe of One hundred Sixty & two pounds Five Shillings due by bond bearing date the 28th of March. 1672. in which bond the saide Stone is bound with & for Caleb Tayler in the Summe abouesaide as in the saide bond appears

& the bond is forfeited by non payment with all other due damages according to Attachm^t Dat. 21: Aprill. 1675 . . . the Jury . . . founde for the plaintiffe One hundred Sixty two pounds five Shillings in mony being the Forfeiture of the bond & costs of Court, Vpon the request of both partys the Court chancered this bond to Eighty one pounds twelue Shillings six pence in mony the principall debt & costs of Court being twenty eight Shillings & two pence.

m^r Tho: Edwards appeared in the office aug^o 25^o 75: & acknowledged hee had received full Satisfaction for the within written judgem^t from m^r Dan^{ll} Stone.

as Attests. Js^a Addington Cler

EDMONDS ag^t ROBINSON

Robert Edmonds Executo^r to the Last will & testam^t of George Foxwell deceased plaint. ag^t James Robinson alias Robertson of blew point alias Scarborough Defend^t in an action of the case for non payment of Fifty pounds in Fish & wheate according to the s^d James his Specialty or ingagement under his hand bearing date the .24th of august. 1671. as may appeare; which s^d debt or payment was due or to bee paide the 24th day of June next after the date of the saide Specialty for twenty five pounds of it & the other twenty five pounds was due or paiaible the 15th of October. 1672. as appeare by s^d Specialty & due interest of the afores^d Summe for not being paide in due time is here [311] claimed & other due damages according to attachm^t Dat. March. 9th 167⁴₅ . . . the Jury . . . founde for the plaintiffe twenty five pounds Sixteen Shillings six pence damage according to bill & costs of Court Forty Shillings & eight pence.

Execucion issued May: 14^o 1675.

EDMONDS ag^t ROBINSON

Robert Edmonds Executo^r to the last will & testament of George Foxwell deceased plaint. ag^t James Robinson alias Robertson of blew point alias Scarborough Defend^t in an action of the case for non paiement of Fifty pounds in fish & wheate according to the saide James his specialty or ingagem^t under his hand bearing date the .24th day of August in the year. 1671. w^{ch} s^d debt or paiement was due or to bee paide the .24th day of June in the year 1673. as may appeare, which is to say twenty five pounds of it at the aforesaide time

& the other twenty five pounds the 15th day of October. 1673. as per the s^d specialty appeares & due interest of the aforesaide Summe for not being paide in due time is hereby claimed & other due damages according to attachm^t Dat. March. 9th 1674 $\frac{1}{2}$ The Jury brought in theire Verdict they for the plaint. Fifty pounds to bee paide according to bill & costs of Court Forty Shillings & eight pence.

Execucion issued May: 14^o 1675.

EDMONDS against ROBBINSON

Robert Edmonds Exec^r to the last will & testament of George Foxwell deceased plaint. ag^t James Robinson alias Robertson of blew point alias Scarborough Defend^t in an action of the case for non payment of Fifty pounds in Fish wheate & beefe according to the s^d James his specialty or ingagement under his hand bearing date the 24th day of august in the yeare. 1671. as may appeare; which s^d payment was due or to bee paide (to say) twenty five pounds the .24th day of June. 1674. the other twenty five pounds to bee paide the .15th day of October 1674. as per saide Specialty appeares & due interest of the afores^d Summes for not being paide in due time is here claimed & other due damages according to attachm^t Dat. March: 8th 1674 $\frac{1}{2}$. . . the Jury . . . founde for the plaint. Fifty pounds to bee paide according to bill & costs of Court. Forty two Shillings 2^d

Execucion issued May 14^o 1675.

EDMONDS against FOXWELL

Robert Edmonds Exec^r to the last will & testament of George Foxwell dec^d plaint. ag^t Richard Foxwell of blew point alias Scarborough Defend^t in an action of the case for non payment of Six pounds being the remainder of Eight pounds & for non performance of severall Articles mentioned in writing according to Engagem^t Covenant or Specialty [312] under the hand of s^d Richard Foxwell bearing date the .20th day of August. 1669. as may or will appeare for the prooffe of all aboueSued for as due & to bee performed & due interest for non performance of which according to the afores^d Covenant agreement ingagement or Specialty is to the plaint^s damage to the Summe abouesaide with other due damages according to

attachm^t Dat. March 9th 1674. . . . The Jury . . . founde for the plaint. Six pounds according to specialty & costs of Court twenty Seven Shillings & two pence.

Execucion issued May. 14^o 1675.

BRATTLE ag^t HUDSON

Tho: Brattle plaint. ag^t Cap^t William Hudson Defend^t according to attachm^t Dat. Aprill. 19^o 1675.

The plaint. withdrew his action.

DAVIE ag^t HUDSON

Humphry Davie plaint. ag^t Cap^t William Hudson Defend^t according to attachm^t Dat. Aprill: 22^o 1675.

The plaint. withdrew his action.

DAVIE ag^t HUDSON

Humphry Davie plaint. ag^t Cap^t William Hudson Defend^t according to attachm^t Dat. Aprill. 2^d: 1675.

The plaint. withdrew his action.

CLARKE ag^t GRANT

Thomas Clarke of Boston Merchant plaint. ag^t James Grant Defend^t for not paying him a debt of thirty three pounds eighteen Shillings with forbearance & other just damage according to Attachm^t Dat. aprill. 14^o 1675. . . . The Jury . . . founde for the plaint. twenty eight pounds thirteen Shillings ten pence being the ballance of accompt & costs of Court two & twenty Shillings & six pence.

Execution issued 6^o Aug^o 1679.

GIBBS ag^t WHETCOMB

Benjamin Gibbs plaint. ag^t Josiah Whetcomb assignee of Joseph Walters Defend^t in an action of reveiw of an action of the case commenced by s^d Whetcomb as Assignee afores^d against s^d Gibbs (for withholding a horse with bridle & saddle) at a County Court holden at Boston Octobr 27th 1674 & there tryed & judgem^t granted with other due damages according to Attachm^t Dat. January. 25^o 1674.

. . . The Jury . . . founde for the Defend^t costs of Court. allowed twenty Shillings. The plaint. appeal^d from this judgement unto the next Court of Assistants & himselfe principall in £.5. & Anth^o Checkley & Jn^o Sandys Sureties in 50^s apeice acknowledged themselves respectiuely bound to . . . prosecute his appeale . . . [313]

[For earlier developments in this case, see above, pp. 486, 490, 493, 512. S. F. 1424.9 is a "declaration" by Gibbs; Whetcombe's answer is in S. F. 1424.12. Gibbs's Reasons of Appeal from this second judgment against him follow (S. F. 1427.7):

Benj^a Gibbs his Reasons of Apeall from the Judgment of y^e Countie Court Sitting in Boston y^e 27th Aprill 1675 to y^e honor^d. Court of Assistants

Imprim^s Because y^e apellant humbly Conceiueth y^t by y^e s^d Iudgment he is made uncapable to acompt any thing (Even y^t which he hath y^e Best right unto) to be his Own but if any person hath y^e Impudence to comence an action against him for it he must imediately resigne it Least it be recovered from him w^h far more Cost & Charges; for y^e horse w^h bridle & saddle in controversy; was made y^e appellants By y^e Exact observation of a court order from w^h order there was noe desire of An apeale by Ioseph waters Assigner of s^d horse: & thereby y^e apellant Humbly conceiues: made his Propper estate without being responsible to any man therefore; else y^e apriement would proue a cheat to y^e receuer w^h is not to bee Imagined y^e act of an honest man; much Less of an honord court of pious Christian Majestrates upon w^h apriement y^e receiuer Improues and provides for y^e Creature As his own & charges noe man for y^e keeping thereof under w^h consideration y^e apellant did soe; for y^e horse in controversy untill he had bin at more Cost without any Profit yⁿ y^e said horse was worth Including what he paid y^e counstable for y^e same

Secondly y^e Iuries oath binds them to giue a Iust verdict acording to law & evidence but he humbly conceiueth there is noe evidence in this case y^t Proues y^e then plantif to haue any right to y^e horse in Controversy. neither doth the apellant know any law y^t giues y^e assigne any right unto y^t which y^e Assigner hath not any for a man can deriue to another [noe] more right yⁿ he himself hath but y^e Assigner of y^e horse in controversy had noe legall right unto y^e horse for before y^e Assignement as per y^e date apeareth: y^e horse was made y^e appellants And y^e vallew thereof [w^h] remained secured in his hands at y^e comand of y^e honored court (As he suposed towards y^e Sattisfaction of his fine to y^e country) soe y^t when y^e apellant Saw y^e first atachment demanding y^e horse in behalf of Iosia whettcomb assigne Vnto Ioseph waters; he Expected y^t both y^e assigne & assigner would haue had a severe Check from y^e honor^d Court for y^e high contempt of their athority & not himself to be cast for not obeying s^d demands to pay Eight pounds or there abouts in Money as pr. y^e Courts order [n^o] 6: & Iosia whettcombs bill costs n^o: 11: Altho the Plantiue Was informed y^t s^d whettcomb boasted in y^e Country y^t he had y^e advice of three majestrates to sue y^e apellant for y^e horse but as y^e apellant then Did soe as in dutie bound he now doth beleiue it a false & Slanderous [Report] of s^d Whettcomb Corespondent to y^e rest of his actions in this case and y^t the court & Iury acted acording to their then understanding of y^e case well Knowing And beleieing y^t Antient & devine maxime tho:

may Seeke y^e Rulers favour Every Mans sentence is from y^e lord; upon whose Pleasure in this concluding Sentence he hopeth with quietness to awaite haucing bin at nere twenty pounds charge In and concerning y^e proceuteing of a run-away theif & y^e apdependencies thereof Humbly requesting y^e Iury to veiw & consider y^e Evidences & concludes they will find noe Ground of Action for y^e theif nor his Assigne but Iust cause to Returne y^e apellant his money wth costs. all w^{ch} he humbly comends to y^e honord Court & Gentlemen of y^e Iury as y^e Reasons of his apcall

And Subscribes

Your Honour^{rs} Humble Serv^t

Benj^a Gibbs

These Reasons were received 2^d Septemb^r 1675.

per Is^a Addington Cler

The gist of Whetcombe's Answer to the Reasons (S. F. 1424.8) was that, Gibbs

hauing Resaiued the mony to the full extent of the Law the now defendant doth humbly conseeiue that hee cannot haue any Just Right to the hors in controuersye: and for the greatnes of his charg it may esily apere that hee had the hors but a Litell tim before the mony was payd him. . . .

it is euident enugh that m^r gibbs hauig Resaud satesfactyon according to Law without the hors hee had then no Right to the hors and that the sentens of the honerd County court hath ben performed is euident by the Resaigt for y^e mony vnder m^r gibbs his owne hand. . . .

The appeal was heard in September, 1675, by the Court of Assistants, at which one Jacob Jesson was an unwilling member of the jury. Disgusted by the want of logical and consistent principle in the regulation of this affair by the Courts hitherto, he repeatedly refused to concur with the rest of the jury in sustaining the verdict of the lower court. The result is indicated in the following order of the Court of Assistants (S. F. 1424.4):

It is ordered that Jacob Jesson giue Bond in the some of 20^l for his Apperance before the Generall Court held the 13th of october next, then & there to Answ^r for his non concurance vnto the Judgment of the Bench & eleuen of y^e Jury in a Case depending, And the Jury is dismiss at p^rsent and after the Generall Court; haue giuen there Judgment concerning the said Jesson, the sayd Jury are to Attend the Court of Assistants when they are called therevnto.

Such an infringement of a juror's freedom of judgment required a protest, and Jesson made it, in the following document (S. F. 1424.10):

Boston October 13th 1675

Jacob Jesson his Reasons why he Could not Concur with the Rest of the Jury in this following Case

It Being my vn happiness to bee at the Court of Assistants heareing of Actions tryed [the] one of the Jury did Craue to be Releasht which I perceiueing did hasten out of Court but was Called back Contrary to my Desire to Supply his Place; by the then: honored Gouvernour & soe was Sworne one of the Jury: to whose more

hard happ it fell: to haue a Case Committed to be Concerning a horse; the Occasion of which Suite was this: [*statement of facts omitted*] . . . but for my own part: I could not then nor now see any Reason for it [the judgment of the lower court] for here is A Court order for Benj^a Gibbs possessing of the Horse: but noe Court order to disposes him Soe that If gibbs should haue deliuered the Horse to Whitcomb: he is still obliged to deliuer the Horse or the value to the Court: when they shall call for [it] & how vnreasonable is it that gibbs should pay for one thing twice y^{or} Hono[r]s will Easily Judg: now that gibbs is Accountable to the court & none other is Euident: because he is only Betrusted By sd Court with sd Horse & the Horse not deliuered to him as part or whole Satisfaction & this must nessesarily be owned: to bee the only intent of the Court in putting him into [his] Hands: or Elce it must Be sayd that the Court Intended own thing & ordered another: but [that] I Dare not say: but affirm that the whole purport of the order is tending [*torn*] this thing; Saying that the Constable of Lancaster: being at great Charge wth [*torn*] sd Horse wee doe order he be deliuered at an apprisement vntill further order should be taken about him: forbearinge to declare that gibbs should ha[ue] the horse as A Compensation for Wrong Sustained & indeed How Could the Court grant a Judgment against sd Waters: before he had his tryall & if soe: then gibbs Could not haue the horse any other way but as A trustee Responding the Appri[se]ment when Required from the Court now Gibbs Being only A trustee he is not Responsible to any other person but those who betrusted him Waters neuer betrusted him With a horse: & therefore noe Reason to giue him such a horse The sd Waters takeing a Wrong Course: for Instead of Sueing gibbs he ought to haue made his address to [y]^e Court; who tooke his horse from him: & got there order to gibbs to deliuer him & then his Way had been Clear Either gibbs Would haue been as good as his Word: in saying vpon Sight of Such an ord^r he would deliuer the Horse: or Elce with far less trouble he would haue been made doe it; the Premises being Well Considered I Cannot Consent to find against gibbs & am Soe thoroughly Setled in my Judgment: that I should be absolutely forsworn: if I should find other Wise; without haueing more light aforded to mee then I Could euer see yett; & therefore wherein I am soe Culpable as to be soe Highly threatened by the Honored Gouverneur & Maj^r Clark: either with a fine of neare a thousand pounds per Annum: or Imprisonment I cant see any Reason or law for it: without there be a Law: that he that will not be forsworn shall pay more then he hath or Elce be Imprisoned: but forsworne I must bee If I find against gibbs: according to the best Judgment I haue: but it may be my dissenting from the Rest of the Jury was not Soe hainously taken as dissenting from the Court: to which I answer: that whether the Court was not of my mind I will not say: but this I can say that Seuerall Honored Magistrates did declare themselves to be of the same apprehension I am of but Suppose neuer A Magistrate: had been of the same minde with my self; what Crime is it; that: that conuicts mee of: I know noe Law that Requireth Jury men to be of the same mind with the Magistrates: nor noe oath that is giuen to vs to oblige vs soe; but this I know that: Jury men doe take oathes to giue in A Just Verdict According to Law & Euidence: which can bee vnderstood noe otherwise then According to their Best Judgment: & not According to the Judgment the bench is off; for if that should bee the mean[ing] of [the] oath then the Jury are not Judges but the bench which is in Effect to [*torn*] vs of all our Libertie: & to take the power out of our Hands: which the [*torn*] giuen vs: for it: for the Law Sayth a Jury of twelue

men shall try Cases & their [*torn*] shall stand: although the bench doth not Agree to it: & the Reason is A Jury [*torn*] the plantifes & defendants peers: But the bench are not their peers: & therefore to make a Jury Say as y^e bench sayth is to mock the Law & to make Jury men but noses of Wax: which thing is soe vnreasonable that none will plead for it: Soe that Seeing as A Jury man I am not Required to be of the same minde with a Court but according to my own Judgment to act & doe (the Law haueing prouided A Remedy in Case any Jury Should goe Contrary to Law) I Cant Judg what Reason there can Bee giuen: why I Should Be thus highly punnished in being bound ouer to A generall Court which Causeth my Reputation to Come in Question for sayth vox populi if he had Not Committed some hainous transgression he would not haue been bound ouer to this Court & besides A great Losse to me & if the Court would but Consider the great vexation of spirit: this Business hath Caused mee in soe much that the Loss of some hundreds of pounds: hath not occasioned; and all because I cant make my Conciencie Buckele Like a twig & Say the sun shines when I know its only moon light soe Desiring the Honored Court to Remember that there is noe breach of Law pleaded against mee nor non haue I Broke: & therefore indeed ought not [in] my Judgment to haue been Bound ouer: if I vnderstand what the first Law in the Lawbooke sayth: that noe mans good name shall Be taken away nor his estate: nor bee any ways punished: but by vertue of Some Express Law of this Co[un]t[ry] Legally published: now if any such Law I haue Broke: the Court doubtlesse would haue cited it & Conuicted mee: but noe such Law Being transgressed I hope I may thinke without offence: I haue harder Measure meeted to mee then the Law doth allow; & therefore to this Honoured Court I would Humbly make my Request that you would vindicate my Credit: which hath Been stained: & Aquit me from this Jury & Consider the needles trouble I haue been put to

& Soe I shall remaine your

honors humble serv^t

Jacob Jesson

By this means the case of the horse and porringer had come to involve the liberty of the subject and the right of jurors to dissent. No reference to the case of Jesson will be found in the official Records of the General Court; the intention of the authorities to keep it out of the public records is evident. But in the docket of this case is a copy of the following judgment of the General Court (the highest Court in the Colony) on 18 November 1675 (S. F.1424.16):

This Court haueing considered the case of m^r Jacob Jesson bound ouer to this court from the Court of Assistants for his wilfull & pertinacious opposeing, & vnreasonable refusing to Concurr wth the Bench & Eleven of the Jury in the Case between m^r Benj^a Gibbs & Josiah Whetcom together wth those high reflections, & abusive Exp^{ss}ions in his declaracion given in to this Court tending to the debasing Authority amongst us, doe Adjudge the Said Jacob Jesson to be publicly admonished & to pay the Summe of tenn pounds in money as a fine to the Country, & to stand Committed till this Sentence be performed, the Deputyes haue past this o^r Honord Magists Consenting hereto

William Torrey Cleric

18.9: 1675

Consented to by y^e magists Edw: Rawson Secret

This case is an interesting parallel to Bushell's case, in England, which established the juror's right to independent judgment almost contemporaneously. Bushell's case grew out of the trial of William Mead and William Penn. See Thayer, *Preliminary Treatise on Evidence*, p. 166, and a recent reprint of the trial,¹ in which expressions at times strikingly similar to those of Jesson were employed to greater effect.]

HUDSON ag^t SMITH

Cap^t W^m Hudson plaint. ag^t Elizabeth Smith widdow & relict of Francis Smith sometime of Boston dec^d Defend^t in an action of debt of twenty four pounds or thereabouts due by booke; which debt was contracted by her saide husband & the s^d Elizabeth having made herselfe Liable to pay the s^d debt as having entred upon alienated or imbezelled the goods or Estate of the deceased without proving any will of the deceaseds taking of Administracion or bringing in an Inventory of his lands goods & debts with all due damages according to attachm^t Dat. Janur^o 19th 1674. This accion was by order continued from the Last Court untill this & being now called. . . . The Jury . . . founde for the plaint. two & twenty pounds & seven pence in mony & costs of Court. The Defend^t appealed from this judgem^t unto the next Court of Assistants & herselfe principall in £.44. & Experience Willis & Rich^d Travis Sureties in £.22. apeice acknowledged themselves respectiuey bound to . . . prosecute her appeale

[This undated petition from Elizabeth Smith (S. F. 1398.5) explains why she objected to being held liable for her husband's debts:

To this Honored County Court Sitting in Boston Elizabeth Smith sometime the wife of Francis Smith of Boston Cardmaker & not yet knowing him to bee dead, yet having received a Summons hereunto annexed & not being able nor hath been to rise out of her bed or walke from the same this severall monthes; by virtue of the law title (Liberties Common) humbly offereth this unto yo^r wise consideration.

That Shee is not liable legally to pay the debts of her s^d husband if hee bee either living or dead: though the s^d Summons saith I am liable to pay the plaintife his demands therein; Because (as hee saith) having entred upon alienated or imbezled the goods ec. without proving any will, taking out Administration or bringing in an Inventory of my s^d husbands Estate; which I humbly conceive had been improper to doe untill I could prove my husband dead; nor doe I beleive any

¹ Don C. Seitz, editor, *The Tryal of William Penn and William Mead for Causing a Tumult*. Boston, 1919. Cf. *New England Quarterly*, v. 812-818.

Court will grant Administration upon any mans Estate untill hee bee dead & soe proved. Wherefore if Captⁿ Hudson can prove my s^d husband dead, it is my desire (if it may soe please the Court) that hee may haue Administration of his Estate and untill hee proves him dead his cause of action is groundless as in the Summons mentioned.

Another thing for him to prove as (I humbly conceive before his action can bee committed) that I haue entred upon ee. for there is a difference between entring upon & being left in possession; and in truth I haue not nor ever had since my husbands departure from this Town for England aboue Six yeares past any of his Estate excepting a little poore bedding & some (& that a few of) other old household stuffe, which hee left mee possessed of & therefore did not enter upon & possess my Selfe thereof.

Lastly. this I say that I did never thinke my husband to bee in Captⁿ Hudsons debt; but this I doe know that my husband did about Sixteen yeares agon send mee to Captⁿ Hudsons with five pounds in mony to lend him & I did then deliver it to him. & since that I know that my husband did Lend him twenty Shillings when our wharfe was laide at the dockhead unto which I can bee deposed & in-treate of this Court I may so doe if you are pleased to judge the same needfull & yet I find no mention of neither of these saide Summes in the plaintifes acco^t nor any other but two articles on the Credit side without date in his old Acc^t begining neere upon 24. yeares past & ending neere upon 12. yeares since & never that I know any of it demanded till now: all which I leaue with yo^r wise consideration praying god to direct you in all truth.

1160365

Elizabeth X Smith
her marke

. . . true Coppie . . . Is^a Addington Cler.

The following evidence of Smith's death (S. F. 1398.6) was produced:

Hudson Leverett aged thirty Six yeares or thereabouts testifieth & saith that being in company with S^r W^m Bartlet, Colonel Kendall & Captⁿ Jn^o Custes at a place called Greene Spring,¹ the aforesaide Custes told mee that there was one Francis Smith a Cardmaker that belonged to New-England was a Servant to S^r W^m Bartlett & that hee lay dying of the Scurvey & dropsey, upon which s^d Capⁿ Custes went with mee and shewed mee the s^d Smith & I saide Captⁿ Custes I never saw a man so altered in my life, for I hardly knew him untill hee spake, & the next morning when Captⁿ Custes & I arose one of S^r W^m Bartlets men told us that the abouesaide Francis Smith was dead & then saide Custice & I went down & saw the s^d Smith lye dead in a Coffin whome when sick I knew to bee the same Francis Smith that sometime lived in Boston & was a Cardmaker here: this was when I this deponent was last in Virginia

Sworn in Court. 27^o Aprill 1675. as Attests Is^a Addington Cler

. . . true Coppie . . . Is^a Addington Cler

Copy of attachment in S. F. 1398.1; deposition of Richard Wharton in S. F. 1398.8; Elizabeth Smith's Reasons of Appeal in S. F. 1398.3. These Reasons refer to the title "Wills" (General Laws and Liberties of Massachusetts, 1672, p. 157), and argue that knowledge that the

¹ Green Spring, the seat of Governor Sir William Berkeley, of Virginia.

owner is dead must be a prerequisite to liability for intermeddling with a decedent's property under that statute.

The Court of Assistants (Records, i. 44) reversed the judgment of the County Court and awarded 26s to the widow (?) Smith.]

HUDSON to BRATTLE

Cap^t William Hudson personally appeared before the Court & acknowledged a judgem^t ag^t himselfe & Estate unto m^r Thomas Brattle for Sixty three pounds Eighteen Shillings & ten pence in mony according to bill bearing date Nov^r 2^d. 1672. in full of s^d bill.

Execucion issued Octo: 5: 1676.

PEACOCK to HUTCHINSON

Samuel Peacock personally appeared before Jn^o Leverett Esq^r Gov^r & W^m Stoughton Esq^r Assist. Aprill: 27^o 1675. and acknowledged a judgem^t ag^t himselfe & Estate for twenty five pounds Seven Shillings & Six pence in mony according to bill date. 6. 8^{br} 1673. unto Eliakim Hutchinson.

Execucion issued June. 21^o 1675.

CRISPE to GIBBS

Jonathan Crispe of Dunstable personally appeared in Court & acknowledged a judgem^t ag^t himselfe & Estate unto m^r Benj^a Gibbs of Boston for ten pounds ten Shillings in mony being the full ballance of all Acco^{ts} to this day

Execucion issued July 12: 1675.

Selectmens Caution

The Selectmen of Boston enter caution ag^t Baker Riders resideing in this Town.

Woods guardian

Bethiah Wood daughter of Nicholas Wood late of Boggleston dec^d appeared in Court & made choise of Robert Badcock of Milton for her guardian which hee accepted & the Court approved of, hee giving in Security according to Law. [314]

CHAMBERLAIN and NORTHY admonish't

William Chamberlain jun^r of Hull & John Northy of the same place being presented by the Grandjury for absenting themselves from

the publique worship upon the Sabbath, the presentment being called Chamberlain owned that hee had not attended on the publique ministry of the word at Hull this. 4. or. 5. yeares & John Northy owned that hee had not attended upon the publique ministry this yeare & halfe, it being the first time of their conviction. The Court admonished them & Order them to pay all charges of prosecution & Fees of Court & prison & that Execucion issue for the same if they refuse payment.

Execucion issued. 24^o June. 75: to Benjⁿ Bosworth for 6^s

Order ab^t PEIRCE's bond

The Court Orders that upon Mihel Peirce his payment of Five pounds in mony forthwith to the Treasuro^r of the County the Forfeiture of his bond upon the disappearance of Jonathan Sprague bee remitted & the former Orders respecting it reversed.

SPRAGUE Fin^d 10^s

William Sprague Sen^r of Hingham not appearing according to Summons to Serve on the Jury of tryalls The Court Fined him ten Shillings in mony to the County.

DAWS his discharge

John Dawes of Boston was discharged from attending upon ordinary traynings in majo^r Thomas Clarke his company.

The Grandjury brought in their bill of presentments aprill. 28. & were discharged.

Order for a Fence at the Prison

The Court Orders that forthwith there bee a strong & substantiall Fence made up about the prison yard towards the Streete that Stuffe & workemen bee impressed for that Service & that the Treasuro^r of the County defray the charge thereof untill farther order bee taken about it.

ELLICE his Estate Setled

For the Setlem^t of the Estate of the Late Joseph Ellice of Dedham dec^d The Court assignes one third part of the houseing & land now unsold, unto the late widdow of the s^d Ellice during her naturall

life, the other two thirds thereof are confirmed upon the s^d Ellice his Children to bee set out to them as they come of age, the eldest Sonn to haue a double portion thereof & in case any of the Children dye before they come of age, the portion of the Childe so dying to bee devided amongst the Survivo^{rs} the s^d widdow to haue the use of the whole for the bringing up of the Children untill they come of age, the remainder of the Estate is confirmed upon her & her heires forever, & that John Bracket who married with the s^d Widdow give Security for the performance of this order to the Children & upon the s^d Bracket his doing of the same, the bond for her true administracion is to bee delivered up. [315]

Order to JN^o LEVIT ab^t HANNA LOBDELL

The Court Orders Deacon John Levit of Hingham to take care of & make provision for his grand childe Hanna Lobdell who is at present at Hull & that hee haue the Estate left her by her Fathers will delivered to him according to will for her Education; which hee accepted of upon this Order.

PORTERS Estate Settled

The Court confirms the whole Estate Left by Tho: Porter of Wymouth dec^d according to Inventory upon his widdow to bring up her Childe withall & that Shee pay twenty Shillings out of the same unto the Childe when it comes of age.

WEEKES Clerke of the Writts

W^m Weekes of Dorchester being chosen by the Freemen and approved of by the Court as Clerke of the Writts for s^d Town was Sworn to the faithfull discharge of his Office.

ADAMS admonish't

Nathaniel Adams jun^r being presented by the Grandjury for his misdemeano^{rs} in words & carriage towards Cap^t Scarlet & Deacon Phillips & his disorderly carriage in the meeting house as will appeare by the testimonies given in The presentm^t being called, the s^d Adams owned it & acknowledged his Error therein & his sorrow for it & Cap^t Scarlet & Deacon Phillips appearing & acknowledging that they were Satisfied by s^d Adams: The Court admonished him ordered him to pay Fees of Court & discharged him.

Treasuro^r Order to pay CLIFFORD

The Treasuro^r of the County is ordered to pay unto Jn^o Clifford Constable of Salem twenty Five Shillings & Six pence for his charges in apprehending & bringing Ric^d Francis to Boston.

BRACKET Sworn a Freeman

James Bracket of Brantery tooke the Oath of Freedom of this Colony.

MARSH discharg^d from trayning

Upon Certificate from Cap^t Joshua Hobart Onesiphirus Marsh was discharged from attending upon ordinary traynings in the Military company at Hingham or wherever hee may remove, so long as his Family are under their present affliction.

Audit of DINELY's administracion

The Court appoints Cap^t Edw: Hutchinson & m^r W^m Tayler to audit the accompt of FATHERGON Dinely's administracion to the Estate of his brother Jn^o Dinely & to make return to this Court.

FAYREBANCKS presentm^t

George Fayrebanck of Medfeilde being presented by the Grandjury for absenting himselfe from the publike worship of god upon the Lords day the presentm^t not being proved fell.

ARNALL admonish't

William Arnall of Milton being present^d by the Grandjury for night walking & neglecting his calling The Court having well weighed & duely considered the Evidences produced ag^t him doe Sentence him to bee admonished to pay charges of [316] prosecution & fees of Court standing committed untill the Sentence bee performed.

BAZELY presented

Thomas Bazely of Brantery presented by the Grandjury for mispending his time & wasting his Estate in excessive drincking The presentm^t not being proved fell.

Brantery under a pœnalty

The Town of Brantery being presented for the want of a bridge both for horse & foote at the brooke called Smelts brooke neere Waymouth: The Court Orders that the Selectmen of Brantery do make a good substantiall foote bridge over the s^d brooke by the next Court of this County under the pœnalty of Forty Shillings.

PLACE his Estate Settled

For the Settlement of the Estate of the late Peter Place of Boston dec^d the Children Left by him being grown up & having received something already from the Estate: The Court confirms what is now remaining of the Estate upon Alice his widdow during her naturall life, & Order that at her decease it bee devided among the Children left by the s^d Peter Place according to law; the s^d widdow paying what just debts are demanded from the Estate; & upon condition of her making over the house as Security for the use of the Children Shee is discharged from her bond for true Administracion.

ANGOLA's Estate Settled

For the Settlement of the Estate of the Late Angola Negro dec^d The Court confirms the whole Estate upon Elizabeth his widdow during her naturall life & at her decease the house & land is confirmed upon the s^d Angola's Children the movables to bee to her & her heires forever.

HARBOUR present^d

John Harbour of Brantery presented for neglecting the publique worship of god in Brantery & frequent travelling upon the Lords day as far as Boston: The presentment not being proved fell.

Boston under pœnalty

The highway at the tide mill at Boston being present^d by the Grand jury for want of sufficient defence from the water of both sides the bridge whereby one man was drown^d The presentm^t being called m^r Tho: Brattle appeared in behalfe of the Town. The Court upon consideration of what was alleaged in the case doe order the Selectmen of Boston to make it up sufficiently for defence of passengers by the next Court of this County und^r the pœnalty of Five pounds.

Order ab^t SCANTS Children

W^m Scant of Brantery being bound over to this Court to answer for his not ordering & disposing of his Children as may bee for their good education & for refusing to consent to the Selectmen of Brantery in the putting of them forth to Service as the law directs. [317] The Court having duely weighed & considered what was alleaged by him & the State of his Family doe leaue it to the prudence of the Selectmen of Brantery to dispose of his Children to Service so far forth as the necessity of his Family will give leaue.

TOLDERVAY Fin^d 5^{li}

W^m Toldervay being presented by the Grandjury for selling strong liquo^{rs} without licence; which himselfe owned & many witnesses testified it ag^t him The Court Sentenc^d him to pay Five pounds in mony as a fine to the County & to give in bond of twenty pounds with Sureties for the good behavio^r untill the next Court of this County (especially that hee doe not transgress the law by selling liquo^{rs}) & then to appeare; & to pay Fees of Court standing committ^d &^a

MOULDER Fin^d 4^{li}

Nicholas Moulder & his wife present^d by the Grandjury for neglecting the publike worship of god in o^r publike meeting houses allowed by Law upon the Lords day; And being called to answer for the same, owned the presentm^t The Court Sentenc^d them to pay Forty Shillings in mony apeice as a fine to the County & fees of Court & order Execucion to issue out for the levying thereof in case they do not make paym^t

Execution issued 15^o July. 1675.

STRETTON & AMEE Fin^d 4^{li}

Eliphah Stretton & Martha Amee present^d by the Grandjury for neglecting the publike worship of god in o^r publike meeting houses allowed by Law upon the Lords day, & being called they owned the presentm^t The Court Sentenc^d them to pay Forty Shillings apeice in mony as a fine to the County & Fees of Court & order execution to issue out for the Levying of the same in case they do not make payment.

SYNDERLAND Sentenc^d

John Synderland Senio^r being complained of to this Court for falsifying his trust as hee was Clerke of the band under the command of Majo^r Thomas Clarke & endeavouring to defraud the Company of a considerable Summe of mony being under Oath for the faithfull discharge of his Office; hee appearing acknowledged what hee was charged with: Upon consideration of his offence therein The Court disabled him for bearing any office for the space of three yeares; disfranchized him & Sentenc^d him to pay Five pounds in mony as a fine to the County & Fees of Court. Vpon consideracion of his poverty the Court respit^d the taking of his Fine till farther order.

FLOODE admonish't

Henry Floode being presented by the Grandjury for neglecting his calling, mispending his time & Estate in excessive drincking to the wronging of his Family: The presentm^t being called hee appeared & owned it, manifesting his sorrow for it: The Court Sentenc^d him to bee admonished & to pay fees of Court. [318]

LITTLEFEILD Sentenc^d

Rebecca Littlefeild presented by the Grandjury & convict by her own confession in Court of having a bastard Childe, which was begotten by Fornication, onely saide the act was committed in Plymouth jurisdiction & had been under the cognisance of theire Court & Shee there Sentenced; but no prooffe made thereof The Court Sentenced her to bee whip't severely with twenty Stripes in case Shee depart not this jurisdiction by the next Court of this County & to pay Fees of Court.

HARDINGHAM Sent^a

Michael Hardingham convict by his own confession in Court of stealing a Suite of cloathes from Tho: Carr; which are returned the s^d Carr again being first valued at thirty five shillings The Court Sentenc^d s^d Hardingham to bee whip't wth Fifteen Stripes or to pay Forty Shillings in mony as a fine to the County & to pay unto Tho: Carr three pounds ten Shillings in mony being that threefold restitution the Law requires, with Fees of Court & prison standing committ^d &^a

THAYRES bond

Richard Thayre bound himselfe in Court in the Summe of Five pounds mony to the Treasuro^r to answer all such charges as the Court shall adjudge him to pay, upon the hearing of his complaint ag^t Tho: Thayre & John Pray.

HORD Sentenc^d

John Hord Sen^r committed to prison for being a common drunckard The Court having duely weighed & considered what Evidences & pleas were produced in the case doe disfranchise him & Sentence him to give in bond with Sureties or other good Security to value of 40^{li} till the next Court of this County & then to appeare & to pay Fees of Court & prison standing committed &^a

GROSS's Estate Setled

For the Setlement of the Estate of the late Isaac Gross of Boston dec^d The Court Orders that Elizabeth his relict since Eliz^a Gridley enjoy the whole Estate untill Eliz^a the onely Childe of s^d Gross come of age or bee married wth the consent of her mother, then the widdow to enjoy onely one third part thereof during her life, the remainder is confirmed upon the Childe & her heires.

GRIDLEYS Estate Setled

And in relation to the Estate of the late Tremble Gridley of Boston dec^d The Court Orders for the Setlement thereof that Elizabeth his relict & widdow enjoy the whole Estate untill Hanna the onely Childe left by s^d Gridley attaine the age of twenty one yeares or bee married with her mothers consent towards her & Childes maintenance & then that the saide Eliz^a Gridley pay out thereof unto the Childe the Summe of Fifteen pounds if it liue to that time

WILLIAMS admonish't

John Williams being bound over to this Court to answer for his killing a bitch of m^r Humphry Warrens & threatning his Negro boy other dogg; the charge not being legally proved against him fell, but hee behaving himselfe very [319] rudely & unmannerly in the Court upon his tryall The Court Sentenc^d him to bee admonished & to pay Fees of Court.

RICHARDS Sentenc^d

Humphry Richards being committed for his theft in stealing a paire of Stilliards from Cap^t W^m Hudson valued at thirty Shillings & a paire of Screws from m^r John Saffin valued at three pounds. Upon hearing of the case the s^d Richards confessed in Court that hee had the Stilliards & Screws & carried them to Newyorke; but that now they were returned to Boston again. The Court Sentenced the s^d Richards to pay unto Cap^t Hudson Four pounds ten Shillings in mony & to m^r Jn^o Saffin nine pounds in mony being that threefold restitution which the Law requires, returning the Stilliards & Screws in part of s^d Summe paying Fees of Court & prison standing committed untill the Sentence bee perform^d

HOLMES admonish't

Nathaniel Holmes bound over to this Court to answer for his injurious detaining the armes & apparrell of Joseph Twichell The partys appearing in Court & declaring they had agreed between themselves; The Court upon hearing what was owned & alleaged in the case doe Sentence the s^d Holmes to bee admonished & to pay Fees of Court.

ROBERTS, BROWNE &^a Sentenc^d

John Roberts, Sam^o Browne, Sam^o Addams, Robert Seares, Nathan¹¹ Greenwood jun^r Josiah Baker, Sam^o Woody, James updick & William Partman being bound over to this Court to answer for their forceible taking John Langworthy upon a pole & by violence carrying of him from the North end of Boston as far as the Town dock; which occasioned a great tumult of people; meeting there with the Constable who did rescue him; The partys appearing in Court acknowledged the charge & declared their ground of so acting towards him was for that hee was an interloper & had never served his time to the trade of a Ship carpenter & now came to worke in their yard & they understood such things were usuall in England: The Court on consideration of the case doe Sentence each of the abouenamed persons to pay Five Shillings in mony as a fine to the County & Five Shillings in mony to Jn^o langworthy & to pay Fees of Court standing committ^d &^a

SMITH Sentenc^d

Dorcas Smith being presented to this Court as being a common drunkard The Court upon hearing of what was Evidenced against her as to that & also of her curseing & other wicked expressions, it being after former convictions. The Court Sentenc^d her to bee whip't with Fifteen Stripes or to pay twenty Shillings in mony fine to the County & to pay Fees of Court. standing committ^d &^a & Order the Selectmen of Boston to take care to dispose of her & her Childe.

respit^d upon her good behavio^r

The Court adjourned from Saturday pr^o to Wedensday the 5^o of May at. 9. a clock in the morning. [320]

May 5^o 1675 @

The Court met according to Adjournm^t

Present

JN^o LEVERETT Esq^r Gov^r

SIMON BRADSTREET Esq^r

EDW: TYNG } Esq^{rs}
W^m STOUGHTON }

FEILDES Estate Setled

For the Setlement of the Estate of the Late Robert Feilde dec^d The Court confirms the whole Estate Left by the s^d Robert Feilde upon Mary his widdow & Relict during her naturall life for the payment of debts & maintenance of herselfe & Children & after her decease the remainder of the land is confirmed upon the Children left by the s^d Feilde to bee equally devided amongst them according to Law.

CARVEATH Fin^d 5^l

Mercy Carveath being bound over to this Court to answer for selling of liquo^{rs} without licence & presenting a petition to the Court wherein Shee humbly acknowledgeth her offence therein & beggs the Courts Favour; The Court Sentenc^d her to pay Five pound in mony as a fine to the County & Fees of Court & respit the Execucion thereof till farther order.

POND'S Guardian

Mary Pond daughter of Robert Pond late of Milton appear^d in Court & made choise of Samuel Wadsworth of Milton as her guardian which hee accepted & the Court approved thereof hee giving Security according to Law.

[Copy of a promissory note from Daniel Henshaw to Wadsworth, for 20s, to be paid to Mary Pond at her majority, is in S. F. 1386.2.]

PONDS Guardian

Martha Pond daughter of aboues^d Pond appeared in Court & made choise of John Gill of Milton as her Guardian which hee accepted & the Court approved thereof hee giving Security according to Law.

PONDS Guardian

Daniel Pond of Dedham is appoint^d guardian to Mercy Pond the other daughter till Shee come of age to choose for herselfe.

FRANKES discharg^d from trayning

John Frankes upon certificate from Majo^r Tho: Clarke was discharged from attending upon ordinary traynings in the military company of Boston under the command of majo^r Clarke upon his payment of six Shillings in mony yearely to the use of the company.

CANNON Fin^d 5^l

Robert Cannon being called before the Court to answer for his falsifying his trust as hee was a Sworn Clerke of the military company under the command of Majo^r Tho: Clarke & going about to deceive the company of a considerable Summe of mony; The Court having well weighed & considered of the papers & Evidences in the case produced doe Sentence the s^d Cannon to pay Five pounds in mony as a Fine to the County & to bee uncapable of giving Evidence or testimony in any civill action or bearing any office & to pay Fees of Court standing committ^d &^a

OCKERBY Sentenc^d

Thomas Ockerby being committed to prison for his drunckeness & wanton carriages to the wife of John [321] Langberry, hee being

under bonds of good behavio^r The Court having heard & well weighed what himselfe owned & the severall Evidences produced against him doe declare his bond for the good behavio^r to bee forfeited & Sentence him to pay three pounds thereof forth with & to bee whip't wth twenty Stripes & to pay Fees of Court & prison standing committed untill the Sentence bee performed.

LANGBERRY Fin^d 10^s

Elizabeth Langberry being committed to prison for her drunkenness & other misdemeano^{rs} & appearing before the Court to answer for the same Shee owned that shee had drank too much & that Thomas Ockerby pulled her into his lap against her will The Court Sentenc^d her to pay ten Shillings in mony as a fine to the County & Fees of Court standing committ^d untill the Sentence bee perform^d

PUNNELL Sentenc^d

Mary Punnell being imprisoned for her committing of Fornication & called before the Court to answer for the same, Shee appeared & confessed the Fact & brought her Childe into the Court with her chargeing one James Jarret to bee the Father thereof The Court having considered of her offence doe Sentence her to bee whip't with Fifteen stripes & to pay Fees of Court & prison And doe Order that Shee bee returned to Milton from whence Shee came & if Shee bee not able to pay her charges nor can procure any Freind to doe it, that then the Town of Milton pay the same & entertain her according to law.

Prison Keeper Fin^d: 5^{li}

Jsaac Gross being committed to prison for his begetting of Esther Nicholls with Childe unlawfully & convaying her away from her Father And being called for by the Court to answer for the same, the Keeper made answer hee was escaped; the Court considering his answer adjudge him to pay Five pounds in mony fine to the County.

PAGE ordered to pay ROSE 3^{li}

William Hilton sent to prison by warrant from major Tho: Clarke for absenting himselfe from the service of Roger Rose & strieking the s^d Rose & being called for by the Court Edward Page appeared

& declared that hee became security to the Constable for his appearance & stood in his place The Court having heard & considered the severall pleas & Evidences in the case doe ajudge the s^d Page to pay three pounds in mony to Roger Rose in behalfe of s^d Hilton & to pay Fees of Court.

Execucion issued July: 27^o 1675. [322]

Licences & Bonds

VIALLS Licence

m^r John Viall upon certificate from the Selectmen of Boston had his licence renewed to keepe a house of publike Entertainment & to Sell wine, beere & Sider by retaile for the yeare ensuing & himselfe principall in 10^{li} & Dan^{li} Stone & Jn^o Woodmansey as Sureties in 5^{li} apeice acknowledged themselves respectiely bound to the Treasuro^r of the County of Suffolke on condicion the s^d John Viall should observe the Laws title Jnkeepers with all theire additions & that if hee sell Sider hee shall not Sell it for more then two pence per quart.

WRIGHTS Licence

Cap^t W^m Wright upon like certificate had his licence renewed to keepe a house of publike Entertainm^t & to sell wine beere & sider by retaile for the yeare ensuing & himselfe principall in 10^{li} & Sam^o Norden & W^m Norton as Sureties in 5^{li} apeice acknowledged themselves respectiely bound to the Treasuro^r of the County on condicion that Cap^t Wright should observe as aboues^d

KENTS Licence

W^m Kent upon like certificate had his Licence renewed to keepe a house of publike Entertainm^t & to sell wine beere & Sider by retaile for the yeare ensuing & gave in bond wth Sureties of twenty pounds for observance of his licence as aboue.

TURNERS Licence

John Turner upon like certificate had his licence renew^d to keepe a house of publike Entertainm^t & to sell wine beere & Sider by retaile for the yeare ensuing & gave in bond of twenty pounds with Sureties for observance of his Licence as aboue. [328] ¹

¹ Pages 323-327 are blank.

At a meeting of JOHN LEVERETT Esq^r Gov^r & SIMON BRADSTREET & EDWARD TYNG Esq^r Assist^s May: 10th 1675.

Order for delivery of goods founde wth NICH^o CURLE

m^r Thomas Doxey appearing & produceing a procuration or letter of Attourny under the hands & Seales of W^m Corbee, W^m Turner, Henry Tanner & John Savage for the prosecution of Nicholas Curle, empowring him the s^d Doxey to take & receive into his custody all such goods or merchandizes as belong unto them or either of them fraudulently taken from them by the s^d Curle which may bee founde The Magistrates order that Js^a Addington in whose custody the s^d goods are by order of Court doe deliver what belongs unto the s^d persons or either of them unto the s^d m^r Tho: Doxey.

BRADISH her guardian

Mary Bradish daughter of James Bradish sometime of Newyorke dec^d appeared with her mother Katharin Symons late Katharin Bradish before John Leverett Esq^r Gov^r & Simon Bradstreet Esq^r Assist. May 10th 1675. & made choise of m^r Peter Bracket to bee her guardian which hee accepted & the Magistrates allowed of, hee giving in security according to Law.

as Attests. Js^a Addington Cler

EDMONDS to SHIPPEN

Robert Edmonds personally appeared before John Leverett Esq^r Gov^r & Simon Bradstreet Esq^r Assist. May. 15^o 1675. and acknowledged a judgem^t against himselfe & Estate unto Edward Shippen of Boston for two hundred pounds in mony being for so much due unto him partly upon mony borrow^d & partly upon a marriage consideration with his daughter

Execucion issued May: 17^o. 1675

JNGOLLS to BELKNAP

Mary Ingolls widdow & Executrix of the last will & testam^t of her late husband Francis Jngolls dec^d personally appear^d before the Worpp¹¹ Simon Bradstreete & Edw: Tyng Esq^r assit^s & confessed judgem^t ag^t herselfe & Estate for twenty Four pounds ten Shillings

in mony unto Joseph Belknap being for so much due to him for her maintenance for Seventy weekes time, this done June. 5^o 1675.

as Attests. Js^a Addington Cler

BOWRY to LYNDE

Jacob Bowry Ship Carpenter personally appeared before Jn^o Leverett Esq^r Gov^r & Edw: Tyng Esq^r Assist. June. 23^o 1675. & confessed judgment against himsele & Estate for Seven pounds one Shilling in mony to m^r Simon Lynde due for house rent.

as Attests. Js^a Addington Cler

LANCAST^r to SHIPPEN

W^m Lancaster personally appeared July. 21^o 1675. before John Leverett Esq^r Gov^r Simon Bradstreet & Tho: Clarke Esq^{rs} Assist^s & confessed judgem^t ag^t himsele & Estate unto Edward Shippen for thirty three pounds six Shillings & eight pence in mony due by booke in full of all acco^{ts} to this day.

as Attests. Js^a Addington Cler [329]

CURLE to ADDINGTON

Nicholas Curle Late of Bristoll Carrier personally appeared before Simon Bradstreet & Edw: Tyng Esq^r Assit^s July: 23^o 1675 & confessed judgem^t ag^t himsele & Estate unto Jsaac Addington Attourny of John Gore of Bristoll Jnholder for twenty Five pounds four Shillings in mony & is in full of a bond left on file bearing date. 27^o Aprill: 1674 for twenty pounds mony of England with all damages.

CURLE to ADDINGTON

Nicholas Curle late of Bristoll Carrier personally appeared before Simon Bradstreet Esq^r & Edw: Tyng Esq^r Assist^s July. 23^o 1675. & confessed judgement ag^t himsele & Estate unto Jsaac Addington Attourny of Robert Powell of Bristoll Jnholder for three pounds Sixteen Shillings three pence in mony; which is for three pounds one Shilling three pence mony of England due by acco^t left on file wth all damages.

CURLE to DOXEY

Nicholas Curle Late of Bristoll Carrier personally appeared before Simon Bradstreet Esq^r & Edw: Tyng Esq^r Assist^s July 23^o 1675.

& confessed judgem^t ag^t himselfe & Estate unto Thomas Doxey Attourney to W^m Read of Tanton in England Searge maker for ten pounds Four Shillings in mony, which is for Eight pounds two Shillings mony of England due by bill left on file bearing date. May 8th 74. wth all damages.

CURLE to DOXEY

Nicholas Curle late of Bristoll Carrier personally appeared before Simon Bradstreet Esq^r & Edw: Tyng Esq^r Assist^s July 23^o 1675. & confessed judgem^t ag^t himselfe & Estate unto Thomas Doxey Attourney to Samuel Talbot of Tanton Searge maker for Six pounds one Shilling three pence in mony which is in full of a bill for Five pounds mony of England left on file bearing date May. 8th 1674. wth all damages.

as Attests. Js^a Addington Cler [330]

At a County Court held at Boston July. 27^o 1675 @

Present

JOHN LEVERETT Esq^r Gov^r
SIMON BRADSTREET Esq^r

EDW: TYNG
W^m STOUGHTON } Esq^{rs}
THO: CLARKE

Grandjury Sworn

Deacon Sam^o Bass
Jn^o Sweete
Jn^o Search
Jn^o Miriam
Jn^o Blake
Ric^o Meads

Rob^t Williams
Tho: Tileston
Tim^o Mather
Henry Crane
Jonas Humphery
Edm^o Pitts

Tho: Lincoln
Js^a Lobdell
Nath^a Whiting
Jn^o Aldis

Jury of Tryalls Sworn

m^r Jarvis Ballard
Tho: Sanford
Ric^o Crispe
Sam^o Ruggles

Sam^o Scarborough
Tho: Holman
Steven Paine
Joseph Nash

Edm^o Hobart
Simon Burr
Samson Shore
Elice Wood

Nath^a Greenwood added in roome of Ric^o Crispe after the first forenoon of the Court.

[DEANE v. PEACOCK]

Thomas Deane plaint. ag^t Samuel Peacock Defend^t in an action of debt of twenty Seven pounds nine Shillings & six pence in mony due by bill or Specialty under his hand bearing date the. 10th of March. 1674/5 with due interest & other due damages according to attachment Dat. July. 20th 1675. . . . The Jury . . . founde for the plaint. twenty Seven pounds Seventeen Shillings & ten pence in mony & costs of Court. twenty Five Shillings & two pence.

Execucion issued Aug^o 4th 1675.

[RUCK et al v. WHARTON]

John Ruck Rich^d Lord & John Blackleich or either of them plaint. ag^t Rich^d Wharton Defend^t The plaint. withdrew his action.

[NONAN v. LILLY]

Daniel Nonan plaint. ag^t Edward Lilly Defendant in an action of the case for not giving the saide Nonan two Suites of apparrell

fit & convenient for such an apprentice & the Summe of ten pounds by the value thereof at the end of the s^d term in such specie of payments are made according to the custom of New-England as will more fully appeare by Jndenture under the hand of s^d Lilley & all other due damages according to attachm^t dat. July 9th 1675. . . . The Jury . . . founde for the plaintife a new Suite of apparrell to the value of Four pounds in mony & ten pounds in currant pay according to the custom of the Country & costs of Court £01:03:0.

Execucion issued aug^o 6^o 1675.

[COOLY v. JOHNSON]

Henry Cooly plaint. ag^t Benjamin Johnson Defend^t in an action of debt of Eight pounds or thereabouts due by bill & all due damages according to attachm^t Dat. aprill 26th 1675. . . . The Jury . . . founde for the plaint. Seven pounds Seventeen Shillings to bee p^d according to bill & costs of Court £:1:13:1 or equivalent to those Species.

Execucion issued aug^o 3^d 1675 [331]

GIFFARD ag^t FLOYDE

John Giffard plaint. ag^t John Floyde (Attourney to Henry Dispaw the elder & Henry Dispaw the younger) Defendant according to Attachm^t Dat. June. 2^d 1675. The plaint. in failure of his process having arrested onely the Attourney was NonSuted & costs grant^d the Defend^t nine Shillings ten pence.

Execucion issued 27^o march. 1677.

WINSLOW ag^t BENDALL

Edward Winslow plaint. ag^t Free Grace Bendall Defend^t in an action of the case for non performance of an Award of Arbitration given in by m^r Thomas Brattle & m^r James Whetcomb bearing date. 28. day of May 1675. as may more fully appeare by the s^d award with interest & other due damages according to attachm^t Dat. June. 26: 1675. . . . The Jury brought in a speciall verdict. Jf an Award of Arbitration under the hands & Seales of the Arbitrato^{rs} within the time set them not positiuely obligeing to a certain Summe bee binding & good in law then wee finde for the plaint. two hundred pounds in mony forfeiture of the bond & costs of Court; but if s^d award not

positiuey obliging to a certain Summe bee not bindeing & good in Law, wee finde for the Defend^t costs of Court: The Magistrates on perusall of this verdict finde for the Defend^t costs of Court.

WINSLOW ag^t BENDALL

Edward Winslow master & halfe Owner of the Catch Johns Adventure in behalfe of himselfe & other Owner plaint. against Free Grace Bendall Defendant for the Forfiture of three hundred pounds due by Charterparty bearing date the fifth day of Novemb^r 1674 with interest & other due damages according to attachment Dat. June. 26. 1675. . . . The Jury . . . founde for the plaint. three hundred pound Lawfull mony of New-England Forfiture for breach of Charterparty & costs of Court. The Magistrate chancered this Forfiture to one hundred Ninety Six pounds Six Shillings eight pence mony & costs of Court twelue Shillings.

Edward Winslow personally appeared January. 29^o 1675. & acknowledged that hee was fully Satisfied by Free Grace Bendall for the within written judgem^t

as Attests. Js^a Addington Cler.

BENDALL ag^t WINSLOW

Free Grace Bendall plaint. ag^t Edward Winslow Defendant in an action of the case for breach of Charterparty in not following the order of s^d Bendall in Loading the Catch Jn^o adventure with Salt at the cape de verd Jslands hee having all due conveniency & incouragement for the same as may fully appeare & all due damages according to attachm^t Dat: July. 22^o 1675. . . . The Jury . . . founde for the Defendant costs of Court. [332]

SALMON ag^t EDWARDS

Robert Salmon plaint. ag^t David Edwards M^r of the Ship Supply Defend^t in an action of the case for non payment of wages due for Seven monthes & twenty two dayes at three pounds Five Shillings in mony per month for his Service done in the s^d Ship from Barbados to Jamaica the bay of Campechia & from thence to this place & other due damages according to Attachm^t Dat. July. 16th 1675. . . . The Jury . . . founde for the plaint. Fourteen pound ten Shillings & ten pence mony & costs of Court £01:01:04. Robert Salmon

personally appeared in the office Aug^o 3^d 1675. & acknowledged that hee had received full Satisfaction of m^r David Edwards for the aboue written judgement.

EVANS ag^t EDWARDS

Patrick Evans plaint. ag^t David Edwards Defend^t in an action of the case for non painment of wages due for ten monthes & Eighteen dayes at thirty Six Shillings in mony per month for his Service done & performed from Boston & from thence to Barbados, Jamaica & the bay of Campechia & unto this place again in the Ship called the Supply & for other due damages according to attachment dat. July. 16th 1675. . . . The Jury . . . founde for the plaint. Seventeen pound one Shilling & five pence mony & costs of Court £01:06:10. Patrick Evans personally appeared in the office aug^o 3^d 1675: & acknowledged that hee had received full Satisfaction of m^r David Edwards for the aboue written judgement.

DOXEY ag^t DOBLEDAY

Thomas Doxey Attourney of William Jefferys of the parish of Bormandsey in the County of Surrey tanner plaint. ag^t Roger Dobleday late of Wapping in the County of Mdd^x now of Boston in New-England Currier Defend^t in an action of debt of ten pounds Fifteen Shillings & Six pence lawfull mony of England due for hides sold him about five yeares since with interest for the same & other due damages according to attachm^t Dat. July. 13^o 1675. . . . The Jury brought in theire verdict . . . for the plaint. Fourteen pound three Shillings lawful mony of England & costs of Court.

OSBORNE ag^t MEASURE

John Osborne plaint. ag^t William Measure Defend^t in an action of the case for that hee the s^d Measure did sell unto the s^d Osborne $\frac{17}{32}$ parts of the Catch Hopewell of which Robert Haughton was late Master) for Fifty five tonns & upon the Measure & calculation of the same her burthen appeares to bee but Forty Seven tonns or thereabouts whereby the plaint. is damnified to the value of thirty pounds or thereabouts, with all other due damages according to attachm^t dat. July: 22^o 1675. [333] . . . The Jury . . . found for the Defendant costs of Court.

MEASURE against HAUGHTON

William Measure plaint. ag^t Robert Haughton Defend^t in an action of the case for that hee the s^d Haughton did sell unto the saide Measure $\frac{1}{3}\frac{2}{3}$ parts of the Catch Hopewell (of w^{ch} hee the s^d Haughton was late Master) for Fifty five tonns & upon the Measure & calculation of the same, her burthen appeares to bee but Forty Seven tonns or thereabouts whereby the s^d Measure is damnified to the value of thirty pounds or thereabouts with all other due damages according to attachm^t dat. July: 22^o 1675. . . . The Jury . . . founde for the Defend^t costs of Court.

HAUGHTON ag^t MEASURE

Robert Haughton plaint. ag^t William Measure Defend^t according to attachm^t dat. 25^o June: 1675.

The case having been heard in the Court of Admiralty
The Court declared the accion fell.

[The papers of this case are in S. F. 1425.]

BATT ag^t WELDS

Timothy Batt plaint. ag^t Thomas Welds Defend^t in an action of debt of Eight pounds eight Shillings & ten pence in mony due by booke & all due damages according to attachm^t dat. July: 19^o 1675. . . . The Jury . . . founde for the plaint: Eight pounds Eight Shillings & four pence in mony & costs of Court. The Defend^t appealed from this judgement unto the next Court of Assistants & himselfe principall in Sixteen pounds & Tho. More & Jn^o Synderland as Sureties in £.8. apeice acknowledged themselves respectiuey bound to . . . prosecute his appeale . . .

[Copies of attachment, of agreement by John Wells, of Newbury, house-carpenter, to frame three shops for Timothy Batt for 12*l* 10*s*, of extracts from Batt's books respecting payments in goods to Wells, and of various depositions, are in S. F. 1402.1, 2, 5-7. The following, in no. 7, is a sample:

The deposition of Edward Mortimore aged. 23. yeares or thereabouts testifieth

That this depon^t being in Timothy Batts Shop sometime in March last heard the s^d Batt Say that Thomas Wells had taken up Eight pounds in goods of him as J understood upon his brother John Wells his account, and the s^d Batt asked this deponent whither if Batt Sued Thomas Wells for the goods that hee had

taken of Batt, whither John Wells would not Sue him for 6^{li} in mony that hee was to pay for the worke which was done or in doing: to w^{ch} this depon^t replied hee might be sure hee would doe it & farther Saith not.

Sworn in Court. July: 28.75.

as Attests Js^a Addington Cler.

S. F. 1402.3

Thomas Wells his Reasons of Appeale from A Iudgement obtainde against him by Timothy Batt at y^e County Court held in Bostown In July last past

1 Because I humbly conceaue I was then uniustly Served, being then and ther Served for A debt of eaight pounds eaight Shillins tenn pence monneys w^{ch} I neuer, neither receued of him nor nothings for which I was Soe obliedged to doe

2 Because tho I doe and must owne that I receued Summ goods of him yet it was not to pay him monneys for. but apou accompt of work w^{ch} I did for my brother Iohn Wels who was by Agreement to doe a parcell of work for Sd Batt for w^{ch} hee was to Receaue twelfe pounds tenn Shillins half in monneys the other half in goods w^{ch} Said work I wrought upon, & my Brother Spake [to] Sd Batt to Deliuier mee what goods I had occassion for & afterward[s] tould my brother hee had Soe Donn as by my brothers testimony appeares

3 That I did receaue what I receaued of Said Batt apou my brothers accompt is euedent by the testimony of Abraham Clements Iames Burns William [O]arum & Edward Mortimoar

4 Becaus his charge is proued by no Body but himSelf and Seueral of the perticulers in his accompt I neuer Receued; & how far his accompt and charge is proued I leaue to this Hon^d Court & Iury to Iudge of w^{ch} J hope will See Just Cause to Reuerse the former Iudgement and to taik of those damaiges from mee w^{ch} the defft for his owne Interest is willing to put mee unto

Thomas Wells

These Reasons were received 2^d 7^{br} 1675.

per Js^a Addington Cler.

S. F. 1402.4

Timothy Batt his Anser unto Thomas wells his, Resons of appeal

To his first y^e Law titell appeall saith he shall breifly giue in under his hand, his reasons of appeal, with out reflecting one Court or pearty, y^e which Law I humbly conseaue, he hath broken by bringing forth his humbell conseption, in theas words, I was Then unjustly served, which I Leaued to y^e honired court & Juerys, reprehention, and for his other pearte of y^e same, That he neuer Receued the goods is not treue for it is proued upon oath, what he did reseue, & his second reson saith that he doth & must one, that he hath receued some goods of y^e now defendand, & his third reson confermeth his reseption of goods also

To his second he one eth that he had goods, yet was not to paye in mony for them, J anser tha^t homesoeuer J trust, I Expekt mony or satisfaktion to be my payment, & whear other satisfaction is not tendered, mony ought to be paid, becaus the pufes to our Law saith, that in defect or want of a Law the word of god is to be our Law, which saith By Soloman, that mony ansers althings this is to y^e Legality of it & to y^e Equity of it whie J should be paid in mony, becaus y^e pertickelers are charged at mony pric as maye be seen by y^e Bill of persells as marchantable Beeffe at twenty:nine shillings per Barell, & malt at fouer

shilling per Bushell, which was worth then, & is now at this time worth noe Les and the rest of that reson so coled, is fole, for his Brother Jn^o neuer gaue me any order to deliuer, any goods to Thomas welds, the now plaintiff, & for what work he saith, he hath dun apon his Brothers account, was neuer dun by him, nor by his Bro to this uerey daye, for after y^e work had Bin Laid aside by him a full hool year after the time, whear in it was to a bin finshed by the s^d Jn^o welds, J was forsed their by to hier an other man & giue him eight or ten pounds for y^e same, which was greatly to my damag, but if the work had bin dunn by s^d Jn^o I should not haue bin willing, nor could haue bin forsed, to charg this debt to his Brother Johns account, nether could it posably be, becas that then their was noe account, betwen his Brother Jn^o welds, & I the said Batt, for y^e couenant that was made betwen [torn] made the [torn]ber

But seuerall pounds worth, of theas goods that J sold & deliuered to Thomas welds, was in the seuenth of June, which was fiue month Before, as doth apeare by compareing the account & his Brothers agrement to gather, & theirfor can not be understood to be peart of payment, for work to be dune by John a boue ten months after, the goods taken up by tomas Exsept the agrement aboute work had binn maide with thomas hoe is now plaintiue,

But Jf J had charged this debt apon his Brother Jn^o. account which J neuer did, J doe nothing doubt but if i had demanded it, of him he would presently denied pament their of, askeing me to produc his order Ether by word or righting for his so doeing, which in dead J neuer had So that then, if J had sued Jn^o for it, thomas would then a testyfyde that his Brother had them apon his account, as now Jn^o hath dune to y^e same purpos for him, to y^e end I should neuer haue my debt of ether of them

To his third J answer that nether of y^e witnesses their in named doe testyfy what he saith, that the goods which he reseued was apon his Brother Jn^os account, but it may be thay may testyfy of my sayeing, that when Iohn welds had compleated his work, which he had undertaken to doe for me, that then Jf J fell in his debt, that then J would of set peart of this mony that is due to me from Thomas on Jn^os couⁿ or words to y^e Like efeckt, but as for y^e work it was neuer dun yet by nether of them, as hath bin spoken to before

but housoeuer if J had altered my mind after sutch sayeing, & kept it still apon thomas his accoumpt, & their by J had fallen in Jn^o debt, all y^e damag would haue binn, J must haue paid him for his work but this account neuer being tranc mited, from the first charged, namely thomas his accoumpt, J desier to be paid but one: & that by him to home J sold & deliuered the goods, which the other Court & Jury saw Just caus to giue me, & J hope this honored Court & Jury can se no Just caus to reuers

To his fouerth he saith that y^e charg is proueed by no body but him self which was good testimony By a bill of pertickulors, compared with y^e charg in the Book in Court, & sworne to in Court, which hath bin used to be taken for good proof, by that & other courts, & that for reson best known to them selues, as J humbely conseue might pass for good proof against him then being their presant, & asked by y^e honyred magistrat m^r Brodstreat, which of pertickulors he denied, could not, nor did not, Exsept against anny, but that of fifteen penc paid to hinger-man helgison ¹ the baker,

¹ Ingermann Helgison, obviously of Scandinavian origin.

So hoping that nothing, which J haue said, can make that which J trusted to Thomas welds five months, before any agreement mad with his Brother Jn^o, to be taken for peart of satisfaction mentined in y^e said agreement, unles J pleas so to allow of it, which J neuer did,

So Expecting a conformation of y^e former Judgment for my Just debt J rest praying, for the foelisity & prosperity of this honered Court And Iury

Timothy Batt

The Court of Assistants (Records, i. 48) confirmed the former judgment and awarded 26s 6d costs to Batt.]

OFEILD ag^t PERCHEAGO

Thomas Ofeild plaint. ag^t Moses Percheago Defend^t in an action of the case for withholding of a debt of twenty three pounds in mony due for freight of goods on the Mary and Martha from Barbados to Boston & due damages according to attachment. Dat. July: 8th 1675. . . . The Jury . . . founde for the plaint. Nine pounds mony & costs of Court being thirty Shillings & 8^d [334]

TUCKER ag^t BLAKE

Robert Tucker plaint. ag^t Edward Blake Defend^t in an action of debt due to him upon bill according to attachment dat. May: 22^o 1675. . . . The Jury . . . founde for the plaint. the Summe of three pounds that is to Say thirty Shillings in mony & thirty Shillings in good Merchantable cloth & costs of Court being twenty four Shillings & four pence.

Execucion issued aug^o 13^o 1675.

BRIGGS ag^t LEVERETT

Abraham Briggs assignee of John Gifford plaint. ag^t Hudson Leverett Defend^t in an action of debt of Sixteen pounds or thereabouts due by bill under the s^d Leveretts hand. dated the. 30th of Decemb^r 1674. which is for so much hee received of m^r Timothy Mather of Dorchester for the accompt of the s^d Giffords & promised upon Six dayes after the receipt of the s^d Mony to deliver the same to the s^d Giffords or his assignes, and hee having received the s^d debt of the s^d Mather, is now due to the s^d Briggs as an assignee to the s^d Giffords & refuseth to pay the same with all other due damages according to attachm^t Dat. July: 10th 1675. . . . The Jury . . . founde for the plaint. twelue pounds Fifteen Shillings mony and costs of Court.

The Defend^t appealed from this judgement to the next Court of Assistants & himsele principall in £:24: Cap^{ta} James Oliver & Thomas Moore Sureties in £:12: apeice acknowledged themselues respectiely bound to . . . prosecute his appeale . . .

[The bill in question is found in S. F. 1413.3:

This present writeing bindeth mee Hudson Leverett of Boston to pay or cause to bee paid unto m^r John Gifford the Summe of Sixteen pounds currant mony of New-England within Six dayes after the saide Leverett hath received the saide Summe from m^r Timothy Mather & it is alwaies to bee understood that if the saide Timothy Mather shall by his neglect of paying the fores^d Summe impose the s^d Leverett to goe to law for the s^d mony abouementioned, the s^d Gifford shall allow the fores^d Leverett what charge shalbee expended in the same Suite & the s^d Leverett is to pay the saide Summe to the saide Gifford or his assignes. as witness o^r hands this. 30. day of xber. 1674

Hudson Leverett
John Giffard

Witness present
Abraham Briggs
William Grice

Own^d in Court. July. 28^o 1675 by m^r Leverett. attests. Js^a Addington Cler.

Leverett's account of 18l 14s 8d (S. F. 1413.4) which offsets this advance, includes legal services, small loans, and "a maide Servant" at 9l 10s. Gifford denied all knowledge of the maid servant, and added to Leverett's obligations an assignment of 48l "Cash lent him in England" and "a Cuttlash worth 30s" (S. F. 1414.5). Leverett's Reasons of Appeal, which are not preserved, may be inferred from Briggs's reply (S. F. 1413.2):

Abraham Briggs his answeare to m^r Hudson Leverett his Reasons of Appeale from y^e Iudgm^t of y^e County Court held att Boston y^e 27th of July 1675. viz:

1th To his first particular; whereas m^r Hudson Leverett pleads in his appeale of wrong that the Jury should doe him by ord^{ing} the sd m^r Leverett to pay y^e sd Briggs y^e sume of Twelve pounds fiteene shillings in Moneyes & Cost and thereupon y^e sd m^r Hudson Leverett looks upon himsele as wronged as haueing pd & tend^{ed} y^e full summe that he Recd on the sd Giffards acc^t, (To y^e sd Giffards) As he says may appeare by acc^t, (The p^sent defend^t Briggs makes answeare, That according to law & Iustice y^e defend^t Looks upon himsele wronged by such a verdict, And that y^e sd defend^t had noe cause of Complaint, The Law giving that y^e Bill assigned is fully & Justly due to y^e Assignee as is [sic] was to y^e Assignor, And That further it was declared in Court by y^e sd Giffards in p^sents of y^e Court that y^e sd Giffard was ord^{ed} by y^e sd m^r Hudson Leverett to take up what hee did take, of y^e sd Briggs, The said Hudson Leverett haueing Recd y^e sd Giffards Money & made vse of it that hee would pay y^e sd Briggs y^e sd Bill, & that [often] told y^e sd Giffards, when hee came to him about it hee had nothing to doe with him, for hee was to pay y^e said Briggs: y^e s^d Mony, for y^e s^d Bill, (and not him) And that to what hee says that hee hath pd & Tendered

y^e sd Giffards y^e full summe of what he had Recd of Giffards acc^t is noe such thing. Besides y^e 16*li* in Cash, of m^r Mather; The said m^r Hudson Leverett hath Recd Seaven pounds in Cash more Besides one great Trunk that Could not Cost in England less then 30 or: 40s according to y^e Judgm^t of others, Also Turkey worke Chairs & a Carpitt being the Remayner of an execution of 48^{li} That hee will not giue the sd Giffard an acc^t or any thing thereof nor proceed to finish y^e execution, Soe that what Giffard did receive of y^e sd m^r Hudson Leverett was in ord^r to y^e receipt of these Moneyes Comming upon y^e 48^{li} And not to Infringe a Farthing of y^e Sixteene pound Bill Assigned.

2^d It is vterly denied that any Considerable part was pd before hee Recd a penny of m^r Mather what Giffard might say, as for y^e sd m^r Leverett to satisfy himselfe, It was not in Relation to that of m^r Mathers (But as to y^e whole summe of Money of 60*li* that hee had to Receive for him) the sd Giffard which hee had execution for; And might haue possest himselfe of y^e whole as well as any part which for want of effecting hath been great wrong to y^e sd Giffard that it is not don, att p^rsent.

3^d Whereas hee speakes y^e Iury hath giuen Abraham Briggs y^e Assignee of John Giffard y^e Summe of Twelve pounds Fifteene Shillings & y^t Giffard Charges y^e sd m^r Hudson Leverett but wth 16^{li} Recd of m^r Mather, And said Giffard should by himselfe & ord^r receive 7*li* 10s 8*d* is noe such thing; for Giffard as aboue exprest, declares that m^r Hudson Leverett Recd more then y^e saide 16*li* & had more to Receiue which hee might haue soone taken into his hands, as what he hath taken. And that what Giffard either himselfe or ord^r hath Rec^d, he disowned nothing off in Court, But as with Relation to bee pd out of y^e sume in Generall; & not y^e 16*li* in particular, And for what hee speakes of y^e 24s pd att y^e Commissioners Court, Giffard hath declared in Court that hee was euer against y^e sute knowing & haueing told him that hee could not divide y^e Bond; as to make two actions of it; And whereas hee speakes of nine pounds & Tenne shillings for a servant; & that hee affirms that at Giffards Request hee purchased y^e sd Seruant, He knows that m^r Giffards did declare in Court that both y^e sd Giffards & his wife was att y^e sd m^r Leverets House severall times, for this seruant that hee speakes off, & was both denied, And could not obtaine from y^e sd m^r Leverett any such seruant that hee speakes of though they were in want of one & would willingly haue had her, (which neuer since they heard off till now) That hee would pay this debt of 16*li* bye, And soe reserue it to himselfe; as what is before exprest, The summe of 48 *li* of y^e sd Giffard that hee then Recd at y^e same Cort & giues no acc^t thereof Though hee hath received in part of that Bill, Also 7*li* in money 4 Turkey worke Chairs a Turkey Carpitt & a great Trunk as afore mentioned

In Consideracion of all which y^e defend^t hopes to find y^e Justnesse of y^e Court Confirming y^e former Judgm^t with an Addition as to his proper Debt & Cost of Courts

I Remayne yo^r Hono^{rs} Servant to Command,

Abraham Briggs

Septemb^r 7th 1675

The Court of Assistants (Records, i. 50) found for the plaintiff (Leverett) "forty seuen shillings abated of the former Judgm^t & Costs of Courts."]

PENNELL ag^t PENDELL

William Pennell command^r of the Ship Freinds Increase of Falmouth in England plaint. ag^t William Pendell Defend^t in an action of the case for absenting himselfe from the Service of the s^d Pennell to whome hee is engaged to officiate the place of a Carpenter whereby the plaintife & his Owners are much damnified & other due damages according to attachm^t dat. May: 20th 1675. . . . The Jury . . . founde for the plaint. the forfeiture of the Defendants wages according to Law & costs of Court. [335]

KEMBLE ag^t HALL &c.

Henry Kemble plaint. ag^t Ralph Hall Senio^r & John Young both of Exeter Defend^{ts} according to attachm^t Dat. July: 13^o 1675.

The plaint. was NonSuited upon non appearance

BARNES ag^t BATT

James Barnes plaint. ag^t Paul Batt Defend^t in an action of the case for breach of a Covenant made between the s^d Barnes & the s^d Batt bearing date the Seventh day of May One thousand Six hundred Seventy & four by the s^d Batts non paiement of severall Summes of mony & goods at monys price & four thousand foote of Merchantable pine boards unto the s^d Barnes or his assignes according to the s^d Covenant whereby the Summe of two hundred pounds in mony is forfeited unto the s^d Barnes as will appeare by the s^d Covenant under the hand & Seale of the s^d Paul Batt, through whose defect of payment in specie & time therein mentioned, the s^d Barnes was hindred in finishing the s^d buildings expressed in the s^d Covenant unto his great damage with due interest & all other due damages according to Attachm^t Dat. July: 22^ond 1675. . . . The Jury . . . founde for the plaint. the forfeiture of the bond two hundred pounds in mony & costs of Court being two pound eight Shillings & ten pence.

Execucion issued Aug^o 9^o 1675.

RUGGLES ag^t RIGBEY

John Ruggles of Boston Butcher plaint. ag^t Samuel Rigbes or Rigbey of Dorchester Shoemaker Defend^t according to attachm^t

dat. July: 12^o 1675. The plaint. withdrew his accion upon the Defend^t his confessing a judgement.

HOLLOWAY ag^t SMITH

Elisha Holloway plaint. on appeale from the Judgement of Edw: Tyng Esq^r in May Last past ag^t Jsrael Smith Defend^t. . . . The Jury . . . founde for the Defend^t confirmation of the former Judgement & costs of Courts.

SMITH ag^t RAND &c.

John Smith Merchant plaint. ag^t Jsaac Rand late Mate & since Master of the Ship John & Mary, Robert Kemp Carpenter, Henry Butterfeild Gunner, John Smart, Robert Davis, Moses Patrick & James King the company late belonging to the s^d Ship them or either of them Defend^{ts} in an action of the case for not delivering unto m^r George Smith at the Jsland of Thenerife a bayle of Dowlas containing five peices & Sixty five pound of bees wax [336] made up in the s^d bayle shipped by the s^d John Smith upon the s^d Ship for his own proper accompt & consigned to the s^d m^r George Smiths which dowlas & wax amounted to the Summe of Fourty two pounds seven Shillings & Six pence in mony at first cost besides charges which is to the plain-tifs damage to value of about Eighty pounds with other due damages according to attachm^t Dat. pr^o July: 1675. The accion being called some of the Defend^{ts} appeared & L^t Ri: Way & Tho: More as At-tournies for the whole & engaged in Court to respond what should bee recovered by the plaintife. . . . The Jury . . . founde for the Defend^{ts} costs of Court. The plaint. appealed from this judgement unto the next Court of Assistants & himselfe principall in ten pounds & Elisha Cooke & FreeGrace Bendall as Sureties in £:5. apeice acknowledged themselues respectiuey bound to . . . prosecute his appeale . . .

[The Court of Assistants (Records, i. 40-41) sitting as a Court of Admiralty on 17 June, 1675, had ordered John Smith to satisfy the present defendants to the sum of 61*l* 6*s* 6*d* wages and 18*l* salvage. This case apparently was the owner's manner of getting even with his ship's company. The six seamen, for want of security against absconding, had to remain in jail during the action (S. F. 1409.1).

A copy of the boatswain's account of the cargo, and of records from his book, are in S. F. 1409.5, 7; between them comes this significant comment:

Bale N^o 61 you mention in the Invoyce being in the Gunroome no such appears, therefore Looke after it there & advise.

This is a true Coppie extracted out of a letter Subscribed Geo: Smith written to m^r John Smith from Thenerife 25 Ap: 75. which letter is on file.

as Attests Js^a Addington Cler

Two invoices or bills of lading (S. F. 1409.3, 8) follow:

Shipped by the grace of God in good order & wel conditioned by mee John Smith in & upon the good Ship called the John & Mary of London whereof is Master under god for this pu^sent Voyage Josias Hare & now rideing at anchor in the port of Boston & by Gods grace bound for Thenerife port Oratavo to Say twenty Six hogsheads. 21 p^s. 4. punchins of pease & 25630 pipe Staues. 19. hogshead Tobacco. 4. Chests. 2. bayles. 200. jarrs of Oyl & 9. chest of Losa & one barrell & 10. hogsheads copras &. 230. q^{to} of Fish & one box for my acc^o as per invoice . . . and are to bee deliuered in the like good order & wel conditioned at the aforesaide port of Oratauo (the danger of the Seas onely excepted) unto m^r Geo: Smith Merchant or to his assignes hee or they paying Freight for the s^d goods . . . Dated in Boston the 3^d of Novemb^r 1674. . .

. . . true Coppie . . . Js^a Addington Cler

S. F. 1409.8

Boston y^e 2th Novemb^r 1674

Invoyce of goods laden onboard the In^o and Mary Iosias Hare Command^r being for the proper acc^{ot} of mee Jn^o Smith & goeth consigned unto m^r Geo: Smith Merchant in Thenerife marked & numbred as in the margent as followeth.

26 hhd^s of peases: 21. pipes of ditto. 4. punchances of ditto. Containing

549 bush^{lls} at 3^s 9^d per bushell £102:18:09

per 25630: pipe Staues at 4£ per thous^d £102:10:—

N^o X : 54: to 57. per 4. Chests of fine yard broad Dowles conta: 42. p^s

at. 7. £: 10. per peece containes 72 nr £315:—

59 per one bayle containing. 5. p^s of yard broad dowlas at 037:10:—

per. 65£. of Bees wax y^t is in ditto bayle, & in box G: S. at. 1^s 6^d per

pound 004:17:06

per 200. Jarrs of Oyle. at. 5s 6^d per Jarr £055:—

N^o + 1: to: 9: per 8. Chests of Loca seuerall Sorts de Lix^a at. 7. fa per.

1. box of ditto containes in all 4040 Plates at 029:09:02

per. 1. Barrell containes. 178. Hatchetts de bilboa £017:16:—

per. 66. tobacco Boxes at. 3^s 6^d per peece in one of the Chests of dowlas £011:11:—

per 10. hhds. of Copperas containing . . . q^t :59:00:06

N^o × 58: per one Bayle containes .5. p^s being 907 vares of Roane

C[r]udo att £:061:05:04

per 230 qt^a of Fish 160: q^{ts} at 9^s £.072:00:—

70: q^{ts} at 12^s £042:—

£:1001:02:06

Charges.

per: 4. Chests. at: 8. Shillings per Chest	£ 1:12:—	
per: Shipping off the pipe Staues	£ 5:02:—	
per culling the pipe Staues at	£ 2:12:—	
per caske to put the pease in	£ 14:—	
per boate hire for the Tobacco chests and copperas & all other charges, paid coopridge portridge & wharfage	£ 10:00:0	
	£ 33:06:0	33:06:00
		£ 1034:08:00
. . . true Coppie . . . Js ^a Addington Cler.		

Smith's Reasons of Appeal are not preserved; the defendants' answer (S. F. 1409.9) follows:

Isack Rand & company their Answer to Iohn Smith his reasons of Appe[al]

1 Wher as hee Saith the baile of goods Shewed for was Shiped on board the Shipe Iohn & Mary y^e Defftn denied it not but as the owned it to bee Soe Shiped Soe they [did a]firm to y^e deliuary of it at tenerife and after the deliuary of both of that baile and the rest of the Cargoe they whith the Ship Stayed thear about tenn Weeks a[nd] Reloaded the Shipe with A Cargoe bound for Boustown and in all that time y^e deliuary of Sd baile was not questioned but if It had not been deliuered y^e def[endants] conceaue themselues not obliedged but y^e person obliedged was the the[n M]aster naimly Iosias Hare who as m^r Smith himself Saith Signed [torn] of lading for it but while hee liued ther was no Demaund of Anny b[torn] then arising and all tho y^t both hee and the boson wher drowned before our coming away from thence ther was no demaund made of it [torn] of us nor Jndeed was thear Reason Soe to doe wee being the persons not Jngadged [torn] the merchant tho wee owne it is our duty to deliuer y^e Shipe according to the [torn] order wch wee did and this baile Jn question amongst the rest as appeared b[y the] bosons book wch is as good A testimony to proue the deliuary of it as the bosons rec[eipt] y^t the plttf^e presents is to proue the Shipping it one board; Wheras it is Said the boson could not write and thear fore y^e deffts might write in the bosons book: wh[at ever] they pleased to that y^e Answer is y^t if the boson could write y^t receipt w^{ch} the plttf presents for the taikin it in to the Shipe then Surly hee could write in his bo[ok] what is thear written concearing the deliuary of it wher as the plttf obiect ag[ainst] y^e bill of costs & prisson fees Saying y^t the men Whent to prisson to please th[eir] owne humors and soe caime out againe y^t is utterly untrue as appear [torn] y^e return made one y^e Attachment and wheras it is Said y^t George Smith [torn] Sent A letter y^t the baile Shewed for was not deliuered it is not yet proued [worn] his letter but wee haue Just cause to Susspect the contrary because y^s pret[torn] letter Specifieth y^e want of A baile [8]6s w^{ch} is neither the bai[le] in ques[tion] neither was thear anny sutch baile in the Shipe wee Shall ad no moor y^t A Second Master Should bee liable to respond or maik good A first [torn] Jngadgements When no way obliedged soe to doe Wee see no reason fo[r] it soe not doubting but this hon^d court will See cawse to Confirme the f[or]mer Judgement Wee Subscribes our selues yo^r worshipes humble Seruants

Richard Way Athorny to Isack Rand and Companie
[Tho] Moo[r] Aturny to J[] R[] and Cumpany

The Court of Assistants (Records, i. 46) confirmed the former judgment of the lower court and assessed 4*l* 2*d* costs on Smith.]

FIGG ag^t GERRISH &^a

John Figg in the behalfe of Mary his wife plaint. ag^t Cap^t William Gerrish, Nicholas Noyes, Richard Knight and m^r Rich^d Lowle Exec^{rs} & Overseers of the last will & Testam^t of m^r John Lowle deceased Defend^{ts} in an action of the case for her part or portion that was giuen her by her Father in his Last will & testam^t according as the rest of his Children had & as the will doth declare & due damages according to attachm^t dat. July: 19th 1675. . . . The Jury . . . founde for the Defend^{ts} costs of Court being three pounds one Shilling eight pence.

Execucion issued 7^{ber} 8: 1675.

GYDEON &^a ag^t GIBBS

Rowland Gydeon & Daniel Baruh plaint^s ag^t Benjamin Gibbs Defend^t in an action of debt of One hundred & eleven pounds Fourteen Shillings & eleven pence due by booke & bill with all due damages according to Attachm^t. . . . The Jury . . . found for the plaintife One hundred and eleven pounds Fourteen Shillings & eleven pence mony & costs of Court. The Defend^t appealed from this judgm^t unto the next Court of Assistants & gaue bond wth Sureties according to law for the prosecution of the same to effect. [337]

[A mutilated bond for appearance, Gibbs's Reasons of Appeal, and Gydeon's Answer are in S. F. 1401.1-3. The defendant gives as his first reason of appeal that Gydeon sued by book and bill, yet produced only a bill and not his books. Gydeon replies to this "weake appeale": "Who will blame a man to haue two Strings to his bow, Espetially Jn time of danger By Either of wich the Debt was Manifest." In his conclusion he offers to produce his books which were also ready in the lower court,

thowgh new Euidence is as needless as Unusuall Jn the practice of this Court where, as God Command owr Father that the same Law should bee for the Stranger & sorjourner as for the Jssraellits, J may Expect equall Justice — thus Comiting my Case to the honn^d Court and Gentlemen of the Jurye praing for the prosperity of yowr Gouvern^a and that yow may bee further fathers of this scatered Nation.

The Court of Assistants (Records, i. 49) sustained the lower court.]

HOLMAN ag^t ARNAL

Thomas Holman plaint. ag^t William Arnal Defend^t in an action of debt to the value of Four pounds in mony due upon bill wth all due damages according to attachm^t dat. June. 14^o 1675. . . . The Jury . . . founde for the plaintife Four pounds in mony & costs of Court being 20^s

Execucion issued July: 30^o 1675.

CROW ag^t KNIGHTS

Christopher Crow plaint. ag^t Jonathan Knights Defend^t in an action of the case for withholding a debt of Six pounds ten Shillings due for a horse sold & delivered him by the wife of the s^d Christopher Crow & by her husbands order & due interest & other due damages according to attachm^t dat. July 9^o 1675. . . . The Jury . . . founde for the Defend^t costs of Court.

LYNDE ag^t MANNING

Simon Lynde plaint. ag^t Nicholas Manning Defend^t according to attachm^t dat. May. 7th 1675. The plaint. withdrew his accion upon the Defend^t his confessing judgement.

RAWSON ag^t HART

m^r Edward Rawson as Attourney to m^r John Knowles late of Bristoll Clerke plaint. ag^t Jsaac Hart Defend^t in an action of the case for the s^d Hart breach of a bond to the value of Seventy pounds for not paying the Summe of thirty Seven pounds in the Season thereof & delivering up to the s^d m^r Edward Rawson all his receipts as hee was bound to doe as by the s^d bond amply doth & may appeare wth due damages according to Attachm^t dat. July. 2^d 1675. . . . The Jury . . . founde for the plaintife Seventy pounds mony the Forfiture of the bond & costs of Court. The Court chancered this bond to Fifteen pounds mony & costs of Court £1. 3. 6 & Order no Execucion issue out upon this judgement untill m^r Rawson haue recorded the powers hee hath from m^r Knowles to sell the Land granted to s^d Hart.

m^r Rawson produced a Letter of Attourney attested by the publike Notary to bee entred in the: 5th Booke of his Records page. 108. so by order of the Governo^r

Execution issued Decemb^r 19^o 1677.

ROSE ag^t LONG

Roger Rose plaint. ag^t Michal Long Defend^t in an action of the case for receiving an Order & a bill containing twelue thousand foote of boards & planke neere & about the first of May last past & making no return neither of bill nor boards to the plaintifes great damage according to attachm^t dat. June 2^d 1675. . . . The Jury . . . founde for the Defend^t costs of Court. [338]

DOBLEDAY's charge

Roger Dobleday standing charged for wanton Lascivious and unclean carriages with Margaret Wood; pleaded the pu^rviledge of a Jury; which was granted him; . . . The Jury . . . founde him not guilty according to Law.

SALMON to BATT

Robert Salmon personally appeared in Court July: 27^o 1675 & confessed judgement against himselfe & Estate unto Timothy Batt for Seven pounds ten Shillings mony in full of all accompts.

PRATT to WHARTON

Timothy Pratt personally appeared before the Worpp¹¹ William Stoughton & Tho: Clarke Esq^{rs} & confessed judgement ag^t himselfe & Estate unto m^r Richard Wharton for three pounds in mony being in full of all dealings whatsoever between them to this day July: 27^o 1675.

MANNING to LYNDE

Nicholas Manning of Salem GunSmith personally appeared before the Honord Jn^o Leverett Esq^r Gov^r Edward Tyng & William Stoughton Esq^{rs} July: 27^o 1675. & confessed judgment against himselfe & Estate unto m^r Simon Lynde for Eleven pounds Five Shillings in mony due by bill on file bearing date Feb^{ry}: 14^o 1673. being in full of s^d bill wth all damages.

RIGBEE to RUGGLES

Samuel Rigbee personally appeared & confessed judgement against himselfe & Estate unto John Ruggles of Boston Butcher for Eight

pounds Sixteen Shillings in mony being in full of all accountms between them. 27^o July: 1675.

Execucion to bee respited for a month.

Execucion issued 8^{ber} 11^o 1675.

GREEN to VSHER

Samuel Green jun^r of Cambridge personally appeared before William Stoughton & Tho: Clarke Esq^{rs} July: 27^o 1675. & confessed judgement against himselfe & Estate unto Jn^o Vsher for Forty nine pounds Seven Shillings & eleven pence in mony being in full of all accountms betwixt them.

Execucion issued June. 21^o 1677.

Grandjury dismis't

The Grandjury brought in theire bill of presentments July: 27^o 1675 & were dismis't for this Court.

Keeper Ordered to pay PARKES for nursing LORINS Childe.

The Court Orders Tho: Matson Keeper of the prison to pay Mary Parkes for nursing the Childe whereof John Lorin is the reputed Father (who was a prisoner and hath made his escape) unto this time for so long as Shee hath kept it, & that the Select men of Boston provide for it for the future or Satisfy her for keeping it. [339]

m^{rs} FREAKES Liberty

The Court grants Liberty to m^{rs} Elizabeth Freake till the next Court of this County for the bringing in of an Inventory of the Estate of her Late husband m^r John Freake dec^d

KITCHIN Sentenced

Mary Kitchin convict by her own confession in Court of committing Fornication. Shee being now with Childe (as Shee saith) by one Robert Jackson: The Court Sentenced her to bee whip't with fifteen Stripes or to pay three pounds in mony as a fine to the County & Fees of Court & prison standing committed untill the Sentence bee performed.

Dedham & Roxberry Fines remitt^d

Upon the motion of the Town of Dedham to the Generall Court sitting in Boston in May last; The Court recommending the consideration & remitment of the Fines imposed by the court of this County upon the Townes of Dedham & Roxberry for not running the Line between there Townes according to Law This Court were pleased to remit there s^d Fines.

HUBBARDS Estate Setled

For the Setlement of the Estate of the Late John Hubbard of Hingham dec^d hee Leaving but one Childe being a daughter: The Court confirms the whole Estate upon Elizabeth his relict during her naturall Life for her own maintenance & bringing up of her Childe, and at her decease the house & land left by s^d Hubbard to bee to Hanna his onely childe for ever; the movables are confirmed upon the widdow & her heires forever.

EVANS Sentenced

Patrick Evans convict in Court, of his unruliness & disorderly carriage onboard the Ship Supply David Edwards Command^r as hee was one of the company belonging to s^d Ship, and abusing the s^d Master in words & blows, threatening to Stab him &c. The Court having duely considered hereof doe Sentence him to bee whip't with twenty Stripes or to pay five pounds in mony as a fine to the County, with charges of prosecution & fees of Court Standing committ^d untill the Sentence bee performed.

CURLE Sentenc^d

Nicholas Curle convict in Court by his own confession of falsifying his trust as hee was a publique allowed carrier in the City of Bristoll & fraudulently bringing away to New-England sundry parcells of goods belonging to W^m Corbee W^m Turner Robert Woolcot &c. The Court Sentenc^d him to pay ten pounds in mony as a fine to the County & to stand in the pilory in Boston three severall Lecture dayes for an hour at each time immediately after the Lecture & to pay unto m^r Tho: Doxey attourney to the s^d Corbee Turner Woolcot. &c. Eighty Six pounds Fourteen Shillings & one penny English

mony or the value thereof; with [340] Fees of Court & prison standing committed untill the Sentence bee performed.

BACKWAY Sentenc^d

William Backway & Mary his wife convict by their own confession in Court of committing Fornication before their marriage The Court Sentenced the s^d William to bee whip't with fifteen Stripes & Mary his wife with ten Stripes or to pay Fifty Shillings in mony as a fine to the County with Fees of Court standing committed untill the Sentence bee performed.

HARBOUR'S Estate Setled

For the Setlement of the Estate of the late John Harbour of Brantery dec^d The Court confirms one third part of the whole movable Estate Left by s^d Harbour upon Hanna his Relict & her heires & Shee to haue the emprovement of the house & Land during her naturall Life Shee maintaning of it in sufficient repaire without waste or damage the remainder of the Estate is confirmed unto John Harbour his onely Childe & his heires & after the decease of his mother hee to haue the houseing & Land.

Boston under a penalty

The towne of Boston being presented for an insufficient highway from Goodman Barkers to the Lane going to Charlestown being so wet as people cannot comfortably goe to meeting; as also another highway from Thomas Jayes to Mumfords The Court Orders the Select men of Boston to see that the s^d wayes bee sufficiently repaired between this & the next Court of this County under the penalty of Five pounds.

ROSE under a penalty

Roger Rose being presented for letting his well lye open whereby people are exposed to hazard: The Court Orders that the s^d Rose Secure it or fill it up within one weekes time after this day being. 30. July under the penalty of five pounds.

SUMNERS Estate Setled

For the present Settlement of the Estate of the Late William Sumner of Boston dec^d The Court confirms the whole Estate upon Elizabeth his widdow during her widdowhood for her own & Childrens maintenance, and upon her inter Marriage the Court to take such further order therein as occasion shall offer & they judge meet

MORTON's Mony Forfited

John Morton bound over to this Court to answer the complaint of John Saunders for that hee founde a purse with mony in it & never followed the appointm^t of the Law therein whereby the Owner might haue it again; which hee Owned & deposited thirty seven Shillings in mony to answer the same: The Court Orders that [341] that twenty Shillings of the s^d mony bee paide unto John Saunders & the rest to bee forfeited to the County, the s^d Saunders having lost a purse with 18^s 6^d mony in it about the same time Morton ownes hee founde this, & to pay fees of Court.

DEW admonish't

Ambrose Dew being presented by the grandjury for absenting of himselfe from the publique worship of god on the Lords dayes in publique meeting places allowed of according to Law; which hee owned in Court, it being the first conviction The Court Sentenced him to bee admonish't & to pay fees of Court.

AMEE Fined £.2

Goodwife Amee being presented by the grandjury for absenting her selfe from the publique worship of God on the Lords dayes in the publique meeting places appointed by Law; which Shee owned in Court: The Court Sentenced her to pay Forty Shillings in mony as a fine to the County & Fees of Court.

STRETTON Fined £:2

Eliphah Stretton presented & convict as aboues^d The Court Sentenced her to pay Forty Shillings in mony as a fine to the County & fees of Court.

Order for HAWKINS provision

The Court Orders the Select men of Boston to take care to remoue Mary Hawkins from the widdow Coursers & to provide for her at some other house.

Freemen Sworn

Francis Robbinson, Sam^l Ward, Peirce Clarke, John Davis Elisha Odlin, Edw: Thwyng, Jonathan Bridgham and John Valentine all of Boston tooke the Oath of Freedom of this Colony.

TAYLER Sentenc^d

Elizabeth Tayler convict in Court by her own confession of committing Fornication & being with Childe by one man & afterwards marrying with another, The Court Sentenc^d her to bee whip't with twenty Stripes or to pay three pounds six Shillings eight pence in mony as a fine to the County & fees of Court standing committed &^a

MORGAN admonish't

James Morgan being bound over to this Court to answer for his abusive words & carriages to his Ma^r Roger Dobleday The Court having heard & considered the same doe Sentence him to bee admonished & to pay Fees of Court Standing committ^d &^a

JONES Sentenc^d

Owen Jones convict by his own confession in Court of stealing a rugg & a coate from Phillip Keane valued at twenty six Shillings which are returned again: The Court Sentenced him to bee whip't wth Fifteen Stripes & to pay [342] unto Phillip Keane three pound Eighteen Shillings in mony being the threefold restitution the Law requires (what hee hath already received to bee deducted thereout which is twenty six Shillings) & to pay fees of Court & prison: and Order in case hee make not Satisfaction accordingly that hee bee Sold.

MEASURE charged

William Measure being charged by Robert Haughton for feloniously entring onboard his vessell & breaking open the hold and the Cabbin dore of s^d vessell: The Court having heard the case doe acquit the s^d Measure & Order s^d Haughton to pay him his costs.

MORPHEY Sentenc^d

Brian Morphey being complained of by Mary Webster for Strikeing & abuseing of her: The Court having heard & considered of his offence, doe Sentence him to pay ten Shillings in mony as a fine to the County with charges of prosecution & fees of Court standing committed untill the Sentence bee performed.

BATT Fined 5^s

Paul Batt being presented by the Grandjury for oppression in selling two yards & a foote of cloth to Benj^a Smith at fifteen Shillings per yard not judged to bee worth aboue ten Shillings the cloth being produced in Court, the which hee owned to haue sold at that price: The Court considering the case doe Sentence him to pay ten Shillings in mony as a fine to the County & to pay ten Shillings in mony to Benj^a Smith with charges of prosecution & Fees of Court standing committed untill the Sentence bee performed.

BUCKMAN admonish't

John Buckman & Sara his wife being committed for their rude & disorderly carriages, making a disturbance of the Neighbours & outcry in the Streete, & being called before the Court: The Court having heard what account they gaue of it, admonish't them, Ordered them to pay Fees of Court & prison Standing committed &^a

NEGUS's bond of: £:5. Forfited.

Benjamin Negus & his Sonn Jabez Negus being bound in a bond of Five pound for the appearance of Mary Negus at this Court: She not appearing upon due calling: The Court declared their bond forfeited.

NICHOLLS Sentenc^d

Esther Nicholls being sent for by the Court to answer for her committing of Fornication & having a bastard Childe which Shee owned in Court: The Court Sentenced her to bee whip't with Fifteen Stripes or to pay three pounds in mony as a fine to the County & fees of Court standing committ^d &^a

TOLDERVAY discharg^d

Upon due proclamation made William Toldervay was discharged from his bond for the good behavio^r [343]

COLEMAN Fined £.5.

William Coleman being presented by the Grandjury for Selling wine & Liquo^{rs} without Licence; which hee confessed in Court & was testified against him: The Court Sentenced him to pay Five pounds in mony Fine to the County & Fees of Court Standing committed untill the Sentence bee performed.

This Court dissolved Aug^o 2^d 1675.

Present

SIMON BRADSTREET Esq^r

EDWARD TYNG Esq^r

Septemb^r 24^o 1675 @

BRETT to THACHER

Morrice Brett personally appeared & confessed judgem^t against himselfe & Estate unto m^r Thomas Thacher jun^r for twenty five pounds good & Lawfull mony of New-England according to bond on file bearing date Aprill: 3^d 1675.

as Attests. Is^a Addington Cler

Execucion issued 7^{br} 28^o 1675

Present

RICH^d RUSSELL Esq^r

EDW: TYNG Esq^r

pr^o Octob^r 1675

Vsher to DANIEL

John Vsher as adm^r to the Estate of William Antrobus dec^d personally appeared & confessed judgement ag^t the s^d Estate in his hands unto Thomas Daniel of Piscataquay for three pounds twelue Shillings & one penny in mony findeing the same due by the s^d Antrobus his Acco^t

as Attests. Js^a Addington Cler [344]

At a County Court held at Boston by adjournment of the Generall Court Novemb^r 23^o 1675 @

Present

JOHN LEVERETT Esq^r Gov^r

SIMON BRADSTREET Esq^r

EDW: TYNG

W^m STOUGHTON } Esq^{rs}

THO: CLARKE }

Grandjury the same with the former Court

Jury of Tryalls Sworn

m^r John Walley

Abram Gourding

Sampson Sheafe

Tho Cheney Sen^r

Peter Gardner

Rob^t Redman

Jn^o Savels

Jn^o King

Tho: Lincoln

Rob^t Fuller

Jn^o Wales

Sam^o Topliffe

[PURCHASE v. LAWRENCE]

Thomas Purchase plaint. ag^t Nicholas Lawrence Defend^t according to attachm^t Dat. Sept^r 28^o 1675. The plaint. withdrew his action.

[WINSLOW v. WINSLOW]

John Winslow Exec^r (with the consent of the OverSeers) of the last will & Testam^t of John Winslow dec^d plaint. ag^t Samuel Winslow Defend^t according to Attachm^t dat. aug^o 30th 1675.

The plaint. was NonSuted upon non appearance.

[LENDALL v. CASTEEN]

James Lendall plaint. ag^t Samuel Casteen Defend^t in an action of debt of four pounds four Shillings in currant mony of New-England due by bill & all due damages according to Attachm^t dat. Sept^r 13^o 1675 . . . the Jury . . . founde for the plaint. three pounds four Shillings in mony & costs of Court being Seventeen Shillings.

Execucion issued 25^o 9^{br} 1675

PHILLIPS &^a ag^t HOBART

John Phillips & Tho: Russell plaint^s ag^t Josia Hobart late Ma^r of the Ship Katharin Defend^t according to attachment dat. October 13^o 1675. The plaint^s were nonsuted upon non appearance.

HOBART ag^t MOSELY

Josiah Hobart formerly Ma^r of the Ship Golden Falcon plaint. ag^t Rich^d Mosely then Owner of one quarter part of s^d Ship D: in an action of reveiw of an action tryed at a County Court held at Boston the. 27th Octob^r 1674. between the s^d Mosely & s^d Hobart, whereby s^d Mosely obtained a judgem^t ag^t the saide Hobart to his damage, wth all other due damages according to attachm^t dat. Octob^r 14^o 1675. . . . The Jury . . . founde for the Defend^t costs of Court being ten Shillings.

HOBART ag^t MOSELY

Josiah Hobart formerly Ma^r of the Ship Golden Falcon plaint. ag^t Richard Mosely formerly Owner of a quarter part of the s^d Ship Defend^t in an action of debt to the value of ten pounds thirteen Shillings & four pence in mony due to the saide Hobart for a quarter part of the wages of himselfe & his Servant in the s^d Ship from the begining of May. 1673. till the last of October which is Six months & was till the time [345] of the s^d Ship began her voyage from Barbados & bound for London which s^d Summe the s^d Mosely oweth to the s^d Hobart as hee was then owner of one quarter part of the s^d Ship & s^d Hobart Ma^r of her with all other damages according to attachm^t dat. Octob^r 14^o 1675. . . . The Jury . . . founde for the Defend^t costs of Court: The plaint. appealed from this judgement unto the next Court of Assistants, and himselfe principall in £.5. & Jn^o Woodmansey & Ephraim Turner Sureties in Fifty Shillings apeice acknowledged themselues respectuely bound to . . . prosecute his appeale . . .

BEACON &^a agt. BENDALL

Edward Beacon & Robert Scrape plaint^s ag^t Free Grace Bendall Defend^t in an action of the case for the Forfiture of a bond of One hundred & Five pounds of lawfull mony of England in his not paying the Summe of Fifty two pounds eleven Shillings of like mony according to the time expressed in the condition thereof with all due damages according to attachm^t dat. Octob^r 8th 1675. . . . The Jury . . . founde for the plaint. One hundred & Five pounds Forfiture of the bill & costs of Court: The Defend^t moving for a chancery & affirming

& proving by letters that there is twenty pounds paide in part of this bill: The Court chancered the bill to Fifty three pounds New England money & costs of Court w^{ch} is twenty five Shillings three pence

Execucion issued x^{br} 3^o 1675.

Vsher ag^t FOGG

Hezekiah Vsher junio^r Attourny of Charles Gosfright plaint. ag^t Ezekiel Fogg Defend^t according to attachm^t Dat. pr^o 7^{br} 75.

The plaint. was nonsuted upon non appearance.

DAVENPORT ag^t WILLIAMS

Eleazer Davenport late Command^r of the Ship Recovery p^{lt} ag^t John Williams Boatman Defend^t in an action of the case for withholding the Summe of Forty three Shillings nine pence mony due for Freight of goods on s^d Ship from Barbados delivered to the s^d Williams here in Boston wth due damages according to attachm^t Dat. 7^{br} 3^o 1675. . . . The Jury . . . founde for the Defend^t costs of Court.

ALFORD ag^t EVANS

Benjamin Alford Attourny of Nathan^{ll} Gawthorn of London p^{lt} ag^t W^m Evans Defend^t according to attachm^t dat. Octob^r 19^o 1675. The plaint. was nonSuted upon non appearance [346]

CLARKE ag^t CLEMENT

Martha Clarke Exec^x of the last will & testam^t of John Clarke dec^d pl^t ag^t Sam^{ll} Clements Defend^t in an action of trespass for building upon her land before her dwelling house in Boston claiming interest in saide Land, thereby defaming her honest title with all due damages according to attachm^t Dat. Oct^o 21^o 1675. . . . The Jury . . . founde for the Defend^t costs of Court being Seven Shillings & four pence.

WINSLOW ag^t WILKINS

John Winslow Agent to m^r David Riddock m^r Jn^o Winslow dec^d & m^r Rich^d Middlecott plaint. ag^t James Wilkins Defend^t in an action of the case for that the s^d Wilkins hath not delivered twenty hogsheads of sweet scented Tobacco loaden by him the s^d Agent

aboard the Brigantine called the Claiborn Adventure & consigned to the s^d severall persons in Boston or to their Agents in Barbados as by severall bills of Lading or receipts signed by s^d Wilkins dated in Yorke River the 19^o of Novemb^r 1673. may fully appeare with all due damages according to attachm^t dat. Septemb^r 17^o 1675. . . . The Jury . . . found for the Defend^t costs of Court.

WILLIAMS ag^t CLAIBORNS

John Williams Attourney to James Wilkins or his Substitute plaint. ag^t the goods or Estate of W^m Claiborn & Thomas Claiborn or either of their Estates Defend^t according to Attachment Dat. August 17^o 1675. The plaint. was nonSuted upon non appearance.

WHALEY ag^t COLEMAN

John Whaley plaint. ag^t W^m Coleman Defend^t according to attachm^t dat. 7^{br} 24^o 1675. The plaint. withdrew his action.

CHANDLER ag^t MOULDER

Thomas Chandler plaint. ag^t Nich^o Moulder & Miles Foster Defend^{ts} in an action of the case for the Forfiture of a bond of One hundred & Forty pounds of lawfull mony of New-England in their not paying the summe of Seventy pounds of like mony according to the time expressed in the condition thereof with all due damages according to Attachm^t dat. Oct^o 1675. . . . The Jury . . . founde for the plaint. One hundred & Forty pounds mony Forfiture of the bond & costs of Court being twenty Five Shillings.

Execucion issued 9^{br} 29^o 1675 [347]

MAN ag^t CASWELL

John Man plaint. ag^t W^m Caswell Defend^t according to Attachment Dat. Oct^o 19^o 1675. The plaint. was nonSuted upon non appearance.

FOGG ag^t HATHORN

Ezekiel Fogg plaint. ag^t John Hathorn Defend^t in an action of debt for withholding the Summe of two pound eight Shillings in mony due by a writing under his hand of date the. 9th day of July. 1674. with all due damages according to attachm^t dat. 7^{br} 3^d 1675. . . .

The Jury . . . founde for the plaint. two pound eight Shillings according to bill & costs of Court being Sixteen Shillings six pence.

Execucion issued x^{br} 06. 1675

BATT ag^t BARNES

Paul Batt plaint. ag^t James Barnes Defend^t in an action of the case upon reveiw of an action prosecuted ag^t the s^d Batt this last County Court held at Boston the 27. day of the fift month Last, whereby the s^d James Barnes obtained a judgem^t ag^t the s^d Batt, & thereby the s^d Batt so Sued is greatly damnified in the Summe of two hundred pounds mony with other due damages according to attachm^t dat. 11th of august 1675. . . . The Jury . . . founde for the plaint. two hundred pounds in mony & costs of Court being two pounds Seventeen Shillings six pence.

Execucion issued x^{br} 20. 1675.

LIDGETT ag^t BARNES

Charles Lidgett agent of Majo^r Rich^d Waldron plaint. ag^t Jonathan Barnes Defend^t in an action of debt for non paiement of twenty three barrells of tarr due by bill bearing date. Octob^r 10th 1673. with all due damages according to attachm^t dat. Octob^r 2^d 1675. . . . The Jury . . . founde for the plaint. that the s^d Barnes deliver unto the plaint. 23. barrells of tarr Or pay ten pounds in mony & costs of Court being twenty Shillings & four pence.

Execucion issued x^{br} 16^o 1675. twenty three.

LYNDE ag^t BRETT

Simon Lynde Merchant plaint. ag^t Morris Brett Defend^t in an action of debt of Fourteen pounds mony due upon bill obligatory for non paiement of a debt of eight pounds in mony as appeares per saide bill & all due damages according to attachm^t dat. Septemb^r 6th 1675. . . . The Jury . . . founde for the plaint. Fourteen pounds mony forfeiture of the bill & costs of Court being twenty-one Shillings 8^d

Execucion issued x^{br} 10th 1675. [348]

GIFFARD ag^t DISPAWS

John Giffard plaint. ag^t Henry Dispaw Senio^r & Henry Dispaw junio^r Defend^{ts} in an action of reveiw of a judgem^t granted ag^t him

the s^d Giffard John Wright Esq^r & Ezekiel Fogg them or either of them at the Last County Court held in Boston in January last, this with due damages according to attachm^t dat. Aug^t 16th 1675. . . . The Jury . . . founde for the plaint. Five hundred pounds mony & costs of Court being thirty five Shillings & four pence.

Execucion issued April: 24^o 1676.

[The execution is filed in S. F. 1576.]

HUKELY ag^t BATT

Timothy Batt plaint. ag^t W^m Hukley Defend^t in an action of the case for withholding a debt of Fifteen pounds in mony due by bill with all other due damages according to attachm^t dat. Septemb^r 23^o 1675. . . . The Jury . . . founde for the plaint. Fifteen pounds according to bill & costs of Court.

BATT ag^t HUKELY

Timothy Batt plaint. ag^t W^m Hukely Defend^t in an action of the case for withholding a debt of Fourteen pounds Seventeen Shillings eleven pence in mony due by bill with all due damages accord. to attachm^t dat. 7^{br} 23^o 1675. . . . The Jury . . . founde for the plaint. Fourteen pounds Seventeen Shillings & eleven pence accord. to bill & costs of Court.

EDSALL ag^t JOHNSON

Tho: Edsall plaint. ag^t John Johnson Defend^t in an action of the case for that hee hath taken a false Oath ag^t him the s^d Edsell, by which occasion hee hath been formerly imprisoned & now also is committed to prison in reference to the former ocasion by which the s^d Edsell is damnified to the value of one hundred pounds in mony & all other due damages accord. to attachm^t dat. 8^{br} 5^o 1675. . . . The Jury . . . founde for the Defend^t costs of Court nine Shillings & eight pence.

Execucion issued 9^{br} 29^o 1675.

HUDSON ag^t HOUCHIN

W^m Hudson plaint. ag^t Hesther Houchin Defend^t according to attachm^t dat. Octob^r 21^o 1675. The plaint. withdrew his accion.

SANDERS ag^t HARRIS

Martin Sanders plaint. ag^t Rich^d Harris Defend^t in an action of the case for cutting & carrying away the grass of the s^d Sanders under the pretence of title whereby the s^d Sanders is damnified at least two pound ten Shillings with other due damages according to attachm^t dat. 4 (7) 75 [349]. . . . The Jury . . . found for the plaint. Five Shillings damage & costs of Court being twenty five Shillings & two pence.

DOUGLAS ag^t GREENLEAFE

Tho: Douglas plaint. ag^t Enoch Greenleafe Defend^t according to attachm^t dat. Octob^r 20. 1675. The plaint. was nonSuted upon non appearance

NEWCOMB ag^t PHILLIPS

Andrew Newcomb plaint. ag^t Nicholas Phillips Defend^t in an action of debt of ten pounds five Shillings in currant mony of New-England due by bill & all due damages according to attachm^t dat. Octob^r 11^o 1675. . . . The Jury . . . founde for the plaint. ten pounds five Shillings mony & costs of Court.

BRECK ag^t EMMONS

John Breck plaint. ag^t Obadiah Emmons Defend^t according to attachm^t dat. Octob^r 18th 1675. The plaint. was nonSuted upon non appearance.

HOBART ag^t BAILLY

Josiah Hobart plaint. ag^t the goods or Estate of m^r Jn^o Bailley of Rochell Merchant Defend^t The plaint. was nonsuted upon non appearance.

WHARTON ag^t BELCH^r

Rich^d Wharton Attourny to Sam^{ll} Bellingham the onely Sonn & heire of Rich^d Bellingham Esq^r dec^d plaint. ag^t Jeremiah Belcher Defend^t according to attachm^t dat. Octob^r 18^o 1675. The plaint. was non Suted upon non appearance

CLARKE ag^t ATHERTON

John Clarke plaint. ag^t Jonathan Atherton Defend^t The plaint. was non Suted upon non appearance.

YEALES ag^t BURNEL

Timothy Yeales plaint. ag^t Sam^{ll} Burnell Defend^t in an action of the case for withholding the Summe of Forty seven pounds ten Shillings in mony due by covenant as will more fully appeare by the s^d Covenant & other due damages according to attachm^t dat. Octob^r 21^o 1675. . . . The Jury . . . founde for the plaint. Forty seven pounds ten Shillings in mony & costs of Court thirty one Shillings six pence.

ORCHARD ag^t CURTIS

Robert Orchard plaint. ag^t Ephraim Curtis Defend^t in an action of debt of ten pounds due by bill & all due damages according to attachm^t dat. Octob^r 13^o 1675. . . . [350] The Jury . . . founde for the plaint. ten pounds according to bill & costs of Court twenty Six Shillings six pence.

Execucion issued x^{br} 30. 1675.

CRITCHLY'S Estate Setled

For a Setlem^t of the Estate of Rich^d Critchley dec^d The Court Orders that the whole Estate of movables & debts (excepting a debt of Seven pounds in mony due from Jabish Salter included in the thirteen pounds in the InVENTORY) bee setled & confirmed upon Elizabeth his Relict & her heires forever and the Estate in houseing & Land bee Setled & confirmed upon the two onely Children of the s^d Critchley & their heires for ever to bee equally devided betwixt them, they paying out of the same ten pounds in mony yearly unto the s^d Elizabeth their mother in law during her naturall life, and the s^d Jabish Salter who married one of the daughters of the s^d Critchley to haue his own debt of Seven pounds to his own use over & aboue his division of the houseing & Land.

[See case of Simpson v. Salter, below, p. 791.]

Grandjury discharged

The Grandjury brought in their bill of presentments Nov^r 24^o 1675. & were discharged.

Dedham Commissioners

Cap^t Dan^{ll} Fisher m^r W^m Avery & Serj^t Rich^d Ellice were nominated by theire Town & appointed by the Court to bee Commission^{rs} for Dedham to end small causes for the yeare insuing

HARRIS'S Estate & Childe disposed of

The Court Orders that according to the desire of Joanna Harris upon her death bed (who left one Childe & no Father appearing to take care thereof) that the Childe & Estate Left by the s^d Harris bee committed unto W^m Griffith & Anne his wife, and that they pay out of the same what mony the s^d Harris borrowed in her life time for her releife, untill this Court take farther order.

Courts' Order to HOBART

The Court Orders that Josiah Hobart render unto Rich^d Mosely a just & true Acco^t according to the judgem^t of the County Court at Boston in Octob^r 74. by wedensday next. pr^o x^{br} to bee judged of by the Magistrates in Boston if the Court bee broken up (hee having now reveiued the action & being cast therein) in defect whereof the Clerke of s^d Court is ordered to grant Execution ag^t the s^d Hobart & his Estate for the penalty expressed in the afores^d judgem^t

HILLIARD Sentenc^d Fined £.2.

Mary Hilliard being charged for & convicted of stealing sundry goods as from m^{rs} Tappin to value of thirty eight Shillings, from m^{rs} Edsell twenty four Shillings one penny, from m^{rs} Heath nine Shillings, from W^m Jeames Sixteen Shillings from m^r Jn^o Higginson nine Shillings from m^r Higginson Senio^r & his daughter three pound Six Shillings six pence, from m^r Boadish ten Shillings. The Court having considered of her offence do Sentence her to bee whip^t wth 15 Stripes or to pay Forty Shillings in mony as a fine to the County & to pay unto m^{rs} Tappin. £.5.12.0 unto m^{rs} Edsall. £.3.12.3. [351] unto m^{rs} Heath. £.0.9.0. because Shee rec^d her goods again w^{thout} order unto W^m James £.2.8.0 unto m^r John Higginson £.1.7.0. unto m^r Higginson Sen^r & his daughter £.9.19.6. unto m^r Boadish £.1.10.0 all to bee paide in mony, being that .3^{b^{le}} damages the Law requires,

they discounting out of the s^d payments the value of what of their goods haue been returned unto them again & to pay Fees of Court standing committed untill this Sentence bee performed.

DAVIS Fin^d £.5.

Hanna Davis convict in Court by her own confession of committing Fornication & having had a bastard Childe The Court Sentenc^d her to bee whip't with twenty Stripes or to pay Five pounds in mony as a fine to the County & Fees of Court standing committed untill the Sentence bee performed.

TAYLER Fin^d £.2.

W^m Tayler being prosecuted by Francis Dodson for Stealing twenty Shillings in mony from him, of which the s^d Dodson made Oath in Court & s^d Tayler not denying it: The Court Sentenc^d him to bee whip't with .15. Stripes or to pay Forty Shillings in mony as a fine to the County & to pay unto Francis Dodson three pounds in mony being 3^{ble} damages according to Law, wth Fees of Court & prison standing committ^d untill the Sentence bee performed.

SMITH & COOKES bond of £.20. forfit^d

Rich^d Smith & Francis Cooke their bond of ten pounds apeice in mony as Sureties for Charles Blinco was declared by the Court to bee Forfited upon the non appearance of the s^d Charles, & order them forthwth to pay it in to the Tr of the County, who is to allow out of it two Shillings six pence per weeke to the maintenance of the Childe born of the body of Margaret Cox from its birth till further order.

Cox Sentenc^d

Margaret Cox bound over to this Court to answer for her committing Fornication & having a bastard Childe, Shee chargeing Charles Blinco to bee the Father thereof both in her travail & at other times: The Court Sentenc^d her to bee whip't severely with twenty Stripes & to pay Fees of Court standing committed &^a

m^r JOYLIFFE of the Committee to S^r Temples Estate

m^r John Joyliffe is added in the roome of Cap^t Edward Hutchinson as one of the Committee referring to S^r Tho: Temple his Estate.

SALBURY'S Estate Setled

For a division & Setlem^t of the Estate of the late W^m Salsbury of Milton dec^d The Court confirms the whole Estate upon Susanna his widdow for the maintenance of herselfe & Children during her naturall life, Shee paying Forty Shillings to the eldest Sonn of s^d Salsbury when hee comes of age & twenty Shillings apeice to the rest of his Children as they come of age (excepting [352] that already married) and after her decease the Land to bee to the eldest Sonn hee having a double portion out of it; and paying to the rest of the Children then living (excepting to that daughter now married) a Single portion out of it as the land shall then bee valued to bee worth.

BROWNE Fin^d £.5

Mary Browne bound over to this Court to answer for selling strong drinke without licence, Shee appeared & own^d the charge, The Court Sentenc^d her to pay Five pound in mony as a fine to the County according to law & Fees of Court: Upon her humble petition & consideration of her necessitous condition The Court respit^d the Execution of this Sentence till further order.

FULLER Sentenc^d

Charles Fuller being called before this Court to answer for his Shooting at & wounding of Thomas Barnes Serv^t to Jn^o Davenport in the house of Nathanael Bishop s^d Fullers Ma^r whereby the s^d Tho: wholly lost one of his testicles & was otherwaies greatly damified by the s^d Shott. the s^d Fuller owned that hee did accidentally wound the s^d Tho: by a discharging a gunn upon him: The Court Sentenc^d s^d Fuller to pay three pounds in mony to the Chyrurgions for the cure of the s^d Tho: Forty Shillings in mony to Jn^o Davenport for loss of time in his Serv^t & other charges & unto Tho: Barnes who was wounded by him as some Satisfaction unto him ten pounds in mony & Fees of Court & prison & Order that hee bee sold to make paym^t as aboue in case his Ma^r refuse to pay it.

KING Sentenc^d

Nathanael King being charged by the wife of W^m Snell for breaking into her house & Stealing thence Five pounds Five Shillings in mony,

Fifty eight Shillings in mony being found with him of which hee could giue no Acco^t how in any honest way hee might come by it; The Court having heard what was alleaged & proved against him Sentenc^d him to pay unto W^m Snell Fifteen pound Fifteen Shillings in mony being that .3^{b¹⁰} damages w^{ch} the Law requires, deducting thereout what part of the s^d mony hath been restored & to pay Fees of Court & prison standing committ^d &^a

PLATTS admonish't

Tho: Platts Butcher being present^d for keeping open his Shop & selling meate after it's darke upon Saturdays in the Evening thereby profaning the Sabbath, it being the first conviction The Court admonish't him, ordered him to pay Fees of Court & so discharged him.

STANBERRY admonish't

Tho: Stanberry Butcher present^d for the same thing wth Platts & being the first conviction The Court admonish't him, ordered him to pay Fees of Court & so discharg^d him [353]

HURLEY admonish't

Matthew Hurley Serv^t to Sam^l Peirce being bound over to this Court to answer for his abusing & strikeing of Hugh Drury the s^d Drury not appearing to prosecute him according to his bond, and his Master testifying that hee had severely punish't him for it & that Hugh Drury had rec^d Satisfaction The Court admonish't s^d Hurley, ordered him to pay Fees of Court & discharged him.

HILL Sentenc^d

Dennis Hill convict by his own confession of committing Fornication with Sara Paine, who hath now an illegitimate Childe by the s^d Paine: The Court Sentenc^d him to bee whip't with twenty Stripes & to pay two Shillings six pence per weeke in mony to the s^d Sara or her order towards the maintenance of the s^d Childe till this Court take further order & to pay Fees of Court & prison standing committed &^a

Order to prevent profanation of the Sabbath

This Court being informed that notwithstanding the care & provision made for the Sanctification of the Sabbath by the wholesome Laws provided therefore, many persons do wickedly & profanely intrench thereupon by not giving over their worldly buisness in due Season upon Saturdays in the evening, but do very frequently drive their carts and travell between Boston & Roxberry following the workes of their calling & other buisness on those Evenings not onely till it bee darke; but also severall houres within night: For prevention of which Sinn & profaness on the night before or on the day or Evening after: The Court do judge meete to order & appoint & do hereby order Edw^d Miles who liues neere the gates on Boston neck, to provide Locks & lock up the s^d gates upon every Saturday in the Evening when it begins to grow darke, thereby to hinder the passage of carts & horses; and that the Select men of Boston do see to the Execution of this order by sending out meete persons every Saturday towards the Evening to bee upon the neck by the gates till the Sabbath bee over, thereby to prevent such disord^r & profaness & to take notice of such persons as are unnecessarily abroad either travelling about their worldly occasions or prophaning the Sabbath otherways.

The Court adjourned untill thursday the 9^o of Decemb^r at two a clock.

Decemb^r 9^o 1675 @

The Court met according to adjournm^t

Order ab^t PRICE his Credito^{rs}

The Court Orders that the Credito^{rs} to the Estate of m^r Rich^d Price dec^d doe giue in their claimes by the next County Court in January, or else the Estate to bee then devided amongst such Credito^{rs} as do now appeare.

Order ab^t Cap^t JOHNSON

Cap^t James Johnson being complained of for disorderly [354] carriages in his Family, giving entertainm^t to persons at unseasonable houres of the night & other misdemeano^{rs} The Court Orders the s^d Cap^t Johnson to breake up housekeeping & to dispose of himselfe

into some good orderly Family within one Fortnight next following or that then the Selectmen of Boston take care to dispose of him as aboues^d

Order ab^t Cox her Childe

The Court Orders the Treasuro^r of the County to take care to dispose of the Childe late born of the body of Margaret Cox & to make agreem^t with whome hee shall see meete thereabout not giving with it aboue twenty pounds.

This Court dissolved Decemb^r 9^o 1675.

At a County Court held at Boston January 25^o 1675 @

Present

JN^o LEVERETT Esq^r Gov^r
SIMON BRADSTREET Esq^r

EDW: TYNG
W^m STOUGHTON
THO. CLARKE } Esq^{rs}

Grandjury Sworn

m^r Jn^o Pearpoint
Gamaliel Waite
Simon Rogers
Robert Walker
Rich^d Bennet

W^m Gary
Edw: Pason
Rich^d Baker
Anth^o Gulliver
W^m Veasy

Rich^d Ellice
Henry Wight
Jn^o Kingman
James Bate[s]
James Whiting

Jury of Tryalls Sworn

m^r Tho: Batellee
Jer: Cushin
Penn Townsend
Matthew Atkins

Tho: Downe
Phillip Torrey
W^m Tay
Tho: Davenport

Sam^{ll} Pitcher
Martin Sanders
Edw^d Richards
Nathan^{ll} Beales

[BYFEILD v. COX]

Nathanael Byfeild plaint. ag^t Margaret Cox widdow Defend^t according to attachm^t dat. Novemb^r 30th 1675 The plaint. was non Suted upon non appearance.

[GYDEON and BARUH v. MOULDER]

Rowland Gydeon & Daniel Baruh plaint^s ag^t Nicholas Moulder Defend^t The plaint^s were nonsuted upon non appearance.

[VSHER v. FOGG]

Hezekiah Vsher junio^r Attourny to Charles Gosfright pl^t ag^t Ezekiel Fogg Defend^t in an action of debt of One hundred Sixty Five pounds three Shillings six pence halfe penny in currant mony of New-England due by bill & all due damages according to attachm^t dat. Novemb^r 29^o 1675. . . . The Jury . . . founde for the plaint. One hundred thirty eight pounds Five Shillings six pence halfe penny in mony & costs of Court twenty nine Shillings Six pence.

[TOTON v. GIBBS]

Jn^o Toton Chyrurgion plaint. ag^t Benjⁿ Gibbs Defend^t in an action of the case for not paying him the Summe of Six pounds ten Shillings

in mony for the cure of three of his Negro men Viz^t Hector Ferdinando & Domingo & his Servant girle, the time they were under his cure being neere eighteen weekes besides his expence of Medicine as may appeare by his account of theire cures & the time thereof presented to the s^d m^r Gibbs & referred by joint consent of s^d Gibbs & Toton unto the Judgem^t of m^r John Clarke & Isaac Addington who awarded s^d Gibbs to pay unto s^d Toton Six pounds ten Shillings in mony wth all due damages according to attachm^t dat. January pr^o 1675. [355]. . . . The Jury . . . founde for the plaint. Six pounds ten Shillings mony & costs of Court Seventeen Shillings & four pence.
Execucion issued Jan^{ry}. 28^o 1675

HOLLINGSHEAD ag^t MOULDER

Richard Hollingshead plaint. ag^t Nicholas Moulder Defend^t in an action of debt of Fifteen pounds Fifteen Shillings & six pence in mony due by bill & due damages according to attachm^t dat. x^{br} 13^o 1675. . . . The Jury . . . founde for the plaint. Fifteen pounds Fifteen Shillings six pence in currant mony according to bill & costs of Court Fourteen Shillings six pence.

WHETCOMB ag^t MOULDER

James Whetcomb Attourney of Tho: Morrice plaint. ag^t Nicholas Moulder Defend^t in an action of the case for the Forfiture of a bond of three hundred pounds mony due for breach of Charterparty in not paying the hire for one halfe of the pinke Freinds Advice Nicholas Skimmer Master according to the s^d Charterparty bearing date 30th Novemb^r 1674. wth all due damages according to Attachment dat. x^{br} 10th 1675. . . . The Jury . . . founde for the plaint. Forfiture of the Charterparty three hundred pounds mony & costs of Court twenty three Shillings & eight pence.

Execucion issued Jan^{ry}. 29^o 1675.

PECK ag^t THWING

Tho: Peck plaint. on appeale from the Judgem^t of the Worpp¹¹ Simon Bradstreet Esq^r ag^t Benj^a Thwing Defend^t

The plaint. was nonSuted upon non appearance

BAXTER ag^t CHECKLEY

John Baxter plaint. ag^t Anthony Checkly Defend^t according to attachm^t dat. 19:11.1675. The plaint. was nonSuted upon non appearance.

CHECKLEY ag^t BAXTER

Anthony Checkley plaint. ag^t John Baxter Defend^t The plaint. withdrew his action.

CHECKLEY ag^t BAXTER

Anthony Checkley plaint. ag^t John Baxter Defend^t The plaint. withdrew his action.

BARTHOLMEW ag^t GRESHAM

Abraham Bartholmew plaint. ag^t Tho: Gresham Defend^t The plaint. withdrew his action. [356]

SEALL ag^t BRIDGE

Ephraim Seall Cooper plaint. ag^t Francis Bridge Defend^t in an action of debt of five pounds eighteen Shillings & six pence in currant mony due for worke done as appeares by booke & all due damages according to attachm^t dat. Jan^{ry}. 5^o 1675. The Defend^t was called but did not appeare, John Keene his Surety was called to bring him but neither appearing theire bonds were declared forfeited & judgem^t stands entred ag^t both according to law. . . . The Jury . . . founde for the plaint. Five pounds eighteen Shillings six pence currant mony & costs of Court eighteen Shillings.

Execucion issued January. 29^o 1675

PARTON ag^t YALE

Richard Parton plaint. ag^t Theophilus Yale Defend^t The plaint. was nonSuted upon non appearance.

WOODMAN agt POOLE

Jonathan Woodman plaint. ag^t John Poole Defend^t in an action of the case by forfeiting a bond of arbitration in the penalty of One hundred pounds in mony bearing date the .24th day of Novemb^r

1675. under s^d Pooles hand & Seale with all other due damages according to attachm^t dat. x^{br} 13^o 1675. . . . The Jury . . . founde for the Defend^t costs of Court. 6^s 6^d

PALLOT ag^t TAPRIEL

Francis Pallot plaint. ag^t Robert Tapriel Defend^t in an action of the case for withholding a debt of four pounds three Shillings in mony due for five months Service performed in the Hopewell Pinke, part of it lent him in mony & all due damages according to attachm^t dat. Jan^{ry}. 12^o 1675. . . . The Jury . . . founde for the plaint. three pounds Five Shillings in mony in recompence for his Service & costs of Court Eighteen Shillings.

Execucion issued January. 27^o 1675

WOODY ag^t HARRISON

Richard Woody plaint. ag^t John Harrison Defend^t in an action of reveiw of an action commenced ag^t the s^d Woody at a County Court held in Boston January .1674. by the s^d Harrison who complained that the s^d Woody did injuriously cut down his Fence upon the land of the s^d Harrison claiming an interest in the s^d Land calling it common Land, pretending Town order to make it common to the damage of the s^d Harrison at Least £.200. in which case the s^d Woody was cast to his damage about £.200. in regard the s^d Woody is deprived of a sufficient highway to his pasture upon the Fort-hill whereby the rent & improuement of the s^d Land hath been lost about two yeares with other due damages according to attachm^t dat. January. 19^o 1675. [357]. . . . The Jury . . . founde for the Defend^t costs of Court being ten Shillings & six pence. The pl^t appealed from this Judgem^t unto the next Court of Assistants & himselfe principall in £.10. Cap^t W^m Hudson & m^r John Lake Sureties in £5. apeice acknowledged themselues respectiuey bound to . . . prosecute his appeale . . .

[A review of Harrison v. Woody at the previous January session; see above, p. 528. In S. F. 1432.7 is a deed from Richard and Grace Gridley to John Harrison, dated 5 November 1666, of a tract of land "for a Ropefeild" near Fort Hill, Boston, and in S. F. 1432.8-14 are depositions affirming the passage across which Harrison had erected a fence to be a public way. Most of the deponents are old men, and one of them testifies (S. F. 1432.14) to the road's being "reputed a Town

highway." This illustrates the custom of calling old men to testify as to neighborhood reputation concerning ancient boundaries.

Woody's Reasons of Appeal (S. F. 1432.4) and Harrison's Answer follow:

Richard Woody His Resons of Appeale From the Judg^t of y^e County Courtt Held Att Boston Jan^y 25: 1675.

Imp^{rs}: The First Reson of my Appeale Is because my Case was not Rightly vnd^rstood I humbly Conceau^e Att the Last County Courtt; For my Complaintt against the Defend^t Last Courtt was For the great Injory and Damage In y^e County Courtt Before as I Doe Apprehend When the Defend^t Sued me for Cutting Down the fence he had Sett vp vpon the town High Way, By vertue of Which he stoppeth me outt of the Injoym^t of the High Way that Leadeth to my Land vpon Forthill Which my p^decessor and I haue Injoyed aboutt forty yeares and neuer was stopped o[ut] of nor Molested In y^e Injoyment off, till the yeare 1674: which was After my [prede]cessor (m^r Belcher) was Dead: Which High Way being stopped Caused me to loose [torn] Rentt and Am Dayly Damnified Which I sufficiently proued at y^e Last Courtt, [torn] that the Jury Notwithstanding see many plaine Euidences Cast me Contr[ary] to Law Title Possession Which make Me Come to this Honord Courtt For Releife.

2: The Town From Time to Time Made Orders For the Conueniencies of m[en] to Come to there Lands & thatt High Wayes should be laid outt For Euery man in y^e towne to Come to his Lott as Appeares by A Town Order made in y^e yeare 1635: and to this lott of mine the Land in Controu^{sy} was laid outt as a High Way aboue forty yeares agoe & quaitly Injoyed till y^e yeare 1674.

3. This High Way was there Laid outt by the townes order As is Testified by Cap[t] James Johnson & Rich^d Wayte who mentions the p^{rs}ons thatt Were appointed for thatt end, & Rich^d Wayte also Testifies that he Drew the Chaîne before m^r John Oliuer to Lay outt this as a High Way where y^e Defend^t makes Roapes: and that this Land in Controu^{sy} is A High Way & that it was soe Laid outt by y^e towne Order aboue Forty yeares since, and Neuer Disanulled by any Town Act is Testified by Elder Ransford, John [O]ldlin, Thomas Matson sen^r, Francis Hudson, Edmond Jackson, Hugh Drury & seuerall Others.

4 Because The Court Did nott see good to Admitt y^e Testimony of Gemaliell Wayte which I Judg Was very p^tinent to my Case, Who Testifies that the Way in Controu^{sy} he knew to bee a high way this forty two yeares, and in y^e yeare 1639 Elder Leuerett & Elder Oliuer wentt wth him to y^e Water side & did shew him this pease of Land to bee A High Way & it was laid outt by y^e towne; & y^t Good[man] Gridley 35 yeares agoe had shewed him y^e Land y^t was laid outt as A High Way (as the Elders had shewed him before) & told me it was laid outt as A High Way to goe vp to y^e forrt hill: and also testifies that fife men might March A brest in y^e High way Which Testimony I hope this Honord Court Will Accep^t of that soe the truth of the Whole matter may be vnderstood:

5 As to the Defend^{ts} Pretence of A Rightt to the Land In Controu^{sy} he neu^r had any, neither Cold he Claime any p^ttended legall Right till y^e yeare 1666. as per his Deed Appeares, nor an Interpreta^t nor Acknowledgment of his deed tell y^e year[e] 1672: and to the Land In Controu^{sy} he neu^r had any, neither Cold Good: Gridley sell him any: For y^e Land in Controu^{sy} was A High Way Laid outt by the townes Order Forty two yeares agoe; and that Many yeares before

Good Gridly had a Right the[re] and If Good Gridley had pou^r to sell part of y^e Land in Controu^sy to Collonell [S]earle & others Sure itt Cold not be y^e Defend^{ts} butt Good Gridley had no Right to sell the Land In Controu^sy to y^e Defend^t nor any oth^{rs} Butt in all G: Gridleys Deed he Mentions A High Way to A [barr] Gate vp Fort Hill:

6 As to His Euidences He Brought in Against me: which I Conceau^e the Jury Cast me vpon the Last Courtt: they are very Imp^rtinentt Euidences to y^e Case For one of them (vizt Decon Allin) is only a Hearesay: and the other you Will Finde makes an Interpritatⁱon of his Euidence in his Addition vizt Abell Porters Two Euidences Compared together; Butt were there Euidences possitiue which they haue giuen how Can any man sware that another mans Land he liues vpon is his own Except he Were at y^e Bargain Making or was a Wittness to the Deeds or see y^e Deeds. But y^e Land Cold not bee the defend^{ts} by there Euidences as to his Injoying of itt 28 or 30: yeares as his owne are very vnsafe For he had no Deed till the yeare 166[6] and nott Confirmed till the yeare 1672. Butt the Land in Controu^sy was Laid outt as a High Way Aboue forty yeares Agoe, and If Good[man] Gridly had sold it to y^e Defend^t & made it neu^r soe sure by Deed, it Wold signify nothing, For it was none of his to sell, & If the Defend^t hath any Damage Done him he may seek his Remedy of y^e p^rsons Estat y^t sold it to him; Butt this Action of the Defend^{ts} is only to Couett the Land laid outt by y^e town as A High Way to Benifit himselfe and is A breach of that Command thou shalt not Couett: Butt this High way was Laid outt to the plaintiffs Land there being noe other place for A High way to this Pl^{ts} Land butt this w^{ch} the Towns Order saith there shall be a high Way too:

7 This High Way which y^e Defend^t Claimes was Euer A High Way to y^e Fort hill For Sam^l Sindall & Rob^t Sandford Carted that Way Without any Molestation by y^e Defend^t because ther is no other High Way Laid out By ye townes Ord^r to the Fort Hill, also m^r Rob^t Gibbs when he built his house Carted that Way and Challenged it for A town high Way: and For the Defend^t to stopp vpp y^e High way y^t leads into y^e pl^{ts} pasture, which he & his p^rdecessor^r hath Injoyed For this Forty yeares, is Contrary to y^e Law Title Possession, which land the Defend^t neu^r made any Demand of or Claime to as his own till the yeare 1674. and that after he had gott his Deed With the Interpritatⁱon Entered & Recorded and then begins to Grumble & Disturb & molest me In y^e Injoy^t of y^e High Way to my Pasture, neither was there any Fence sett vp by him Nor Good Gridley, (to Hinder y^e Free passage into my Land) till the yeare 1674. Butt what fence or Barr that was sett were sett vp & Maintained by my p^rdesessor & myselfe:

8 As To His p^rtence of His Right in The Towne High way as his own & to take itt away by Forse. I hope y^e Honrd Court Will Consid^r that he Neuer Claimed it till the yeare 1674, thatt he Stopped my Barrs vp: For they allwayes Were open for any man to pull vp & Down till that time & had A free passage Without Disturbance Neither Was his Claime Euer Entered In any Record, as yett to Thatt high Way or Land In Controu^sy

Lastly The Land Within Fence Was First Cap^t Morris Land & then Elder Leueretts butt the Land In Controu^sy, butt the Land In Controu^sy Was neuer there land Butt Was Laid outt For a Town High Way For y^e vse of the Towne to goe vp Fort Hill, and Laid outt by Elder Leuerett himselfe as A town High Way and he neu^r Did Dispose of it to Good[man] Gridley nor any other as it did [E]u^r yett appeare Butt I haue Sufficiently proued that sd Gridly owned there Was a High way vp the Fort Hill where sd Harrisons Rope yard now is: and

the High Way or Land laid outt fo^r a High Way Was Laid Outt by the Townsmen and by the ord^r of the Town, and that According to o^r Law Title High Wayes Sect the Second, and you Will not find there that the towne are Bound to Record the townes High Wayes: Soe there plea as to that Article is of Little validity Butt Wee haue sufficiently proued First that the High Way was Laid Outt by the Towne & thatt this Land In Controu^rsy is the High Way: 2^{dly} thatt itt was laid outt aboue forty yeares agoe: 3^{dly} Thatt I and my p^rdecesso^r Haue Jnjoyed it Without any Molestation till y^e yeare 1674 about Forty yeares, All Which J shall leaue To the Hono^d Courtt And Gentlemen of y^e Jury Seriously to Conside^r off nott Doubting Butt they Will see Just Cause to Reuerse the Form^r Judg^t and Grauntt Mee my Just Damages Sustained

Richard Woodde

These Reasons were received pr^o Martis. 1675.

per Is^a Addington Cler

S. F. 1432.6

John Harrison his Answer to Richard Woody^s Reasons of Appeal from the Judgment of y^e County Court held at Boston Jan: 25: 1675

Although the Plantiffe make a Large declaration of his case by many assertions which if true, might seeme to have some reason in them, yet being examined will appeare but false pretences to darken the truth of y^e case, but time will not permitt So to enlarge haveing more awefull things vpon my heart then willingly to contend for land when desolations are Soe many. But to his first y^e Plantiffe saith the Jury cast him contrary to y^e law of possession, the contrary is evident for y^e Jury cast him according to y^e law possession as hath & shall be made appear.

To his Second what orders the Town made is not my worke to inquire after, but the Plant: no where alledgeth much lesse proveth that any was laid out through the Defend^{ts} Land, to y^e Plant: Land, or that the Land in controversie was laid out for a Highway for any such end

To his Third if this way were so laid out as is affirmed, yet it reacheth not y^e plant: case, but of the truth of that wee doubt, for Cap^t: Johnson wee concei[ve] not capable to take an Oath, Another Testyfie & Swears, it was done by the Select men & committe of Militia, although there was no Committe of Militia in being or any such power in military officers tell some yeares after, Select men & military officers might doe something for the present occasion, but nothing appears Legally that they did act as Select men or Committe of Militia

To his Fourth Gamaliel Waite speaking of other persons who in there lives were honourable & in there death blessed Had they themselves declared in open Court & not given Oath it would not a been Legall testimony, then why another hearing them Speake (it is like some thing of what was done) his oath should reach our case wee doe not vnderstand, but much of that y^e Defend will not deny, for he was not here, but this reacheth not y^e Plant: or his interest, s^d Waite Speaks onely of a way to Fort hill & Souldiers march thither, now y^e Towne hath laid out a way thither many years since, which is within a Stones cast of y^e Defend land, & need not to come vpon y^e land in controversie

To his Fifth y^e Plantiffe greatly mistake himselfe to affirme y^e Defend^t hath no Legal right (calling his right a pretended right) tell y^e yeare 1666 intimating our Law must be of no force but as it sutes the Plant: Interest whereas the law is exspress, Title possession page 123, & after vpon a question in y^e yeare, 72, it is

answered in the affirmative if a person possesse & have no deed it shall remaine y^e possessors, now this Land by virtue of that law is y^e Legall right of y^e Defend^t, in y^e yeare, 62, allthough y^e Plant: affirmeth not pretended tell, 66, What he meaneth by Gridlyes Selling to Col: Serle wee vnderstand not, no such act appearing.

To his Sixth If positive testimony of possession presented, help vs not, Then the Law is vseless, & no man can know his owne, but for his asserting, one is a heeresay if soe it is good prooffe as he inserts in his Fourth Reason & would demonstrate y^e whole matter, but doubtlesse there Testimony remains Firme, many more might be produced both in Towne & Country of y^e Defend: possession if Two were not sufficient Testimony, much is Spoken & reiterated of its Laying out 40 or above 40 years since, to which wee Say little, but if Law be Law this Land is ours now, for besides the invitation given me by the Townsmen of Boston the same which y^e Plant: affirms laid out this highway, did procure to y^e Defend^t the land now in controversie of Gridle, & in y^e yeare 42 I honestly bought & paid for y^e Said Land as by his Deed appears, acknowledged in 66 confirmed in 72 the Law title possession give it fully to the Defend^t quietlie inioying the Said land before, 52, & the Plantiffe intimated no question about it tell, 74, but y^e plant: seemes soe religious to charge y^e Defend^t with the breach of y^e 10th commandment, but himselfe passe over y^e 9th & boldly affirms there is no other place for a high way, to y^e Plant: Land which he doth or may know is absolutely false for there is a highway to Fort hill & Towne land lyeing faire to y^e Plant: Land, which the Defend^t earnestly desires The Jury to walke to y^e place to see for there owne satisfaction

To y^e Seventh, wee Answer who did Cart that way in former times the Defend^t knowes not, but sure he is he hath inioyed it as y^e Law directes if it be possible Soe to doe, for he hath built vpon part of it, & set downe stakes vpon it from end to end & worked dayly vpon it not onely in seed time & harvest but in all seasons of the yeare, soe as no cart can passe that way but his Stakes must be first pulled downe, which none did soe as to weaken the Defend^t Title, if any at any time have transgressed, his title notwithstanding remaines, if any improve my oxen Cow or horse that doth not give title, if any goe into a mans Shop or ordinary without askeing leave I suppose y^e Plant: knowes this gives no title, it Sutes well with the Defend^t trade that men passe by that way, & his predecessor never desired more; yet he did oft travel y^e way that is now laid out. For y^e Fence setting vp wee Say that m^r Belcher did make & maintaine it & ought soe to doe but now y^e plant: supposing to get the Defend^t Land thereby have laid downe Said Fence, wherevpon to prevent Strife y^e Defend^t hath set it vp & maintains vpon his owne charge,

To his Eighth It Seemes Strange any man should be Soe bold Soe oft to affirme it is the Townes Land & accuse y^e Defend^t to take it by force which he abhors y^e Law being allwayes open, & he had no occasion to make any claime of that which he did quietly possesse, & ye Plant: ones there was allwayes Barrs, to ye Fort hill, & therefore not an open high way, as hee [would] to y^e Said Hill & y^e plantiffs Land, & to y^t y^e Defend^t entred no claime & how many doe or will enter a claime of that he quietly possesse & no man questions

To his Ninth what Storyes he tells whose this land was is not my worke to demonstrate, wee may affirme the Land was Elder Leverets & Sould to Gridley but wee have proved to ye satisfaction of the Law & two Courts & Juryes that the land is now ye Defend^{ts}, some thing he tells as by heare Say that Elder Leveret

himselfe laid out ye way which he himselfe sould to Gridley; But his assertion that the Towne is not bound to Record there highwayes, veryly no, wee owne it, nether when they have laid them out are they vnalterable, but they may lay downe one & take another more convenient, in ye Towns Land, To his conclusion that this Land was laid out a high way about 40 yeares agoe & that his predecessor had inioyed it without any molestation tell ye yeare 74 wee Answer as his predecessor did Soe may ye plantiffe travel at any time y^t way without Lett or disturbance, Therefore wee hope this honoured Court & Jury will see both reason & Law to give there verdict & Judgment soe, as the Defend^t shall not allwayes be constrained, to Travel through a fire of contention to inioy his iust Right.

John Harrison

The Court of Assistants (Records, i. 60) reversed the lower court, awarded Woody 2s damage and 5l 3d costs, "and the Highway . . . to be as formerly."]

ADAMS ag^t TURILL

Abraham Adams plaint. ag^t John Turill Defend^t The plaint. withdrew his action.

WARREN ag^t BENNET

Humphry Warren plaint. ag^t Elisha Bennet Defend^t The plaint. withdrew his action.

WARREN ag^t SNOW

Humphry Warren plaint. ag^t Sam^{ll} Snow Defend^t in an action of debt of Six pounds Fifteen Shillings in mony due by bill & due damages according to attachm^t dat. x^{br} 29. 1675. . . . The Jury . . . founde for the plaint. Six pounds eight Shillings six pence in mony & costs of Court Fifteen Shillings & two pence.

Execucion issued Feb^{ro} 22^o 1675.

FOGG ag^t W^{ms}

Ezekiel Fogg & Comp^a plaint^s ag^t John Williams Def^{dt} in an action of the case upon acco^t to the value of twenty six pounds one Shilling & five pence or thereabouts being for goods sold & delivered himselfe & Cap^t Tho: Frizell in consortship as per saide Acc^o will more evidently appeare with all due damages according to attachm^t dat. Janu^{ry} 5th 1675. . . . The Jury . . . founde for the plaint. the ballance of the Acco^t nine pounds Seventeen Shillings & five pence in mony & costs of Court Fifteen Shillings ten pence

Execucion issued Feb^{ry}. 2^d 1675

[A case respecting the Lynn Ironworks, Fogg being some sort of agent for the English Company of Undertakers. As a result of his losing an action with Hudson Leverett at the previous January session (above, p. 546), Fogg was consigned to jail, whence he issued the following petition to the Court of Assistants (S. F. 1472.3):

To The Right: Honno^{rb1} Governo^r And Worpp¹¹ Maiestrates Setting on Bench: in the: Honn^{oble} Court of Assistence

The Humble Petion: of Ezekieil Fogg: A Disconnsolate Prisono^r Humbly sheweth

That yo^r Peticion^r being Committed vppon Execution. whare hath Layne Alredy Eue^r Sence the 5th of Feb^{ry} Last & Like heere to Continnew till releefe from England: w^{ch} will bee a Long tyme before Can Exspect Instructions from ou^r Compan. vppon whose acc^{ott} I am this Sufferer I haueing Advannced^d vpward^s of 2 or 300*li*: more then haue Effects of theires in my hands. & through M^r Giffards Fraudulent Dealeing in not paying what he ought but Consumeing ou^r Compan: stocke in his private Concearnes or at Least Combineing with ou^r Servan^{ts} at whose Suite I am heere. w^{ch} Seemes to be Euedent by Reason as hee is at Liburttie. & yett the principle. that ought to a benn taken with this Execution and not I: besides no Longer Sence then Last night hee Came to mee in an vpbrayding mano^r Flinging the Sentence of y^e Court (for my Folly) in my teeth Contrarye to Law: after a Courts Sentence is Sattisfied butt with very reproachfull Languedg & Dreadfull Curssees did hee abuse mee: vppon my request- ing of him to help mee to Fortye od shillings that I Lately Lent him in mony out of my Pockett w^{ch} would Now in my restraint a Done mee a kindnes: but instead thereof hee flew out in Such a radge Saying the Divell should: haue mee. & the Like. hasting out of my Chamber: with these Expressions that I should Lye heere & Rott Dubleing of it that I should Lye heere till Dice ware made of my boones before I should Com out. Implyeing thereby: my Abideing heere is of his Contry- vience or Combination as before recited: by w^{ch} may See that the mercyes of men are Crueltie who at the worst Can but reach the body yet to be heere: Desti- tute of Publique ordennances: is preiuditiell: to the Soule: which I know yo^r Honno^{rs} in Contience are soe tende^r off that noe prisono^r (Desiereing) might be Deprived of those Gospell privell[e]dges; which God hath Appoynted in his Publique Worshipp: Therefore yo^r Petitioⁿ Doth humbly Pray yo^r Honno^{rs} will please Soe to Consider the premmises as Vouchsafe mee yo^r honno^{rs} Ordo^r, for the Libertie of Goeing to meeteing on Sabath & Lecto^r Daye that I might Experience whilst men Curse God blesse & by Gods Blessing vndo^r Publique ordinances receue Soule Inlardgmen^t: whilst vndo^r Bodyly Restraint: And alsoe Sume tymmes would Craue the Libertie to See my Sicke Brothe^r who hath by y^e visseting hand of God Kept his bed & Chamber in this towne about this 6 mounths that Soe wee might: be a Little Comfortt to each other for he is vncapable of visseting mee. Thus haueing Discharged my Contiene in appeareing not neclegent in y^e vse of meanes in what in me Lyeth: in this my adress to yo^r hono^{rs} in whose brest & powre it is I haueing to y^e Keeper alredy given no Lea then 600*li*. Softient Securitie for my Faithfull Imprisonmen^t And shall Comend the Effect: & my Cause to the wise Disposuer of all things not yo^r honno^{rs} redines of Ad- heereing to Such a Christian act & Reasonable Request the Answareing of w^{ch}

will Deepely obleig yo^r Honno^{rs} humble And Confind Petitio^r as in Dutye bound ever to pray:

Boston Prison: Whilst I Am: Ezekieil Fogg
the. 2^d of: 1st m^o 7th 1674

5 march 1674

In Ans^r to this petition the Court Declares that when the petitione hath honestly paid his Debts he may be at his liberty altogether

past E R S

To which Gifford replied with a counter-petition (S. F. 1472.5):

To the Hono^{ble} the Gove^r And Maiestrates Now Setting in the honored Court of Assistance In Boston:

The remonstrans of John Giffard to the honorable Courte. Humbllye sheweth:

That wheras yo^r honors haue beene presented with a petion from m^r Fogg wherein he makes many Scandilous Complai[n]ts against me thereby to defame me both to this honord Court and Countrey. As not desirous to be ouer troublesome to yo^r honors in yo^r more waitee affaires yet giue me leaue a little to remonstrate the truth in answer to his Scandilous and hollowharted petition. As to his furst relation y^t he giues of his Imprisonment. He may thanke himselfe haueing Conveyde away Soe much of the Comp^a estate as he hath done, and Soe largely Spent vpon it. and hath Soe large and estate as he hath at New yorke betweene 5 and 6 hundred pounds, which can be prooved by oath from his owne mouth and hath still estate remaineing of y^e Comp^a in his hands which he hath made ouer to m^r Sands for his Securetye, he becomeing Securetye for m^r fogg to be a true prisoner as in his petition he demonstrates. Now he knowes that what estate was Committed to him from the Comp^a was to be improoved for the Carring on of the Comp^a affaires in the workes, which vpon my request and others that desired him to furnish the workemen but with 20 pound which would haue stopt these prosedeings. he answred he would not (noe if 5s would doe it, but he keepes me both out of my owne estate and Comp^a estate to make and estate to himselfe, lett what will be come of workes or workemen And where as he sayes he hath advanst vpwards of 2 or 300 pounds more then he hath efects it is noe Such thing, for it is well knowne to the Comp^a and my Selfe he neuer brought a farthing into Stock, what he hath Spent and liued vpon must be raysed out of our estates. And in Case he will haue that to be true the like must belong to me as well as him being partnors in neere 300 pound worth of goods Bough[t] out of England in ioynt ship betweene us that had noe relation to the Comp^a he keeps both this, and that which is of the Comp^a and trades with as he please and will not furnish me with any to helpe forward our business. though I lye at the [Stake] for what euer he can Claime in England which If I might intreat that favor of yo^r honors to Consider of and to put me in Some way that I might force estate out of his hands to Carry our business and End with.

To what he Chargis me with fraudelensye in my dealings and Consumeing the Comp^a estate. I waye not his charge haueing the testimonye of owne Conscience to the Contrarye that I haue and doe studdye the good of the Comp^a and were it that I had of my owne to make present Supply by turneing in to moneys the Comp^a Conserne should not want nor shall Soe long as I Can helpe it, it haue-

ing layne vpon my shoulders now this 6 moneths time and more without any assistance from him but to those Chargis of his he may lay his hand vpon his mouth and looke back on himselfe and Consider how easy Such things wilbe proved against him, he haueing Soe vainely and wickedly Spent that estate w^{ch} would haue Carried our business and end with out any further trouble.

As for my abraiding of him with reproachfull language and dredfull Curses. I denye, and question not but you^r honors haue knowledge of him and Countrey both what a lyer he hath made himselfe out to be. I haue beene heere in the Countrey I thanke God neere this 35 yeere I know not y^t any can Charge me either with Curseing or Swaering or that I euer was adicted there vnto but that it was euer hatefull to me, and through Gods helpe euer shall but that which layes this Scandall vpon me for, is, for what testimonye I haue borne against him, for his vitious Course, when he tooke a Cup of Sack in his hand and holding of it vp (as if he would Call heauen to record to shoue his Cleereness and Innosensy in the last Sinfull business y^t was before yo^r honors, that I stopt his hand and bore wittniss against him, he then abraded me, to the Spectators that was present and no[w] he thus doth againe because he knowes w^t advise I gaue him to take heed of his actions in prison where he had a prissnor, that was reported to be m^r[s] Gillum made in his Chamber in the darke, non but him and she alone for a great Space of time. which Can be testified by M^r Grice that went in to the Chamber. and what he sayd to m^r fogg after I was Come away. which indeed telling him of these things with out abraiding of him he fell abaseing of me with words, where vpon I told him that if this wa[s] all the thanks I had for my loue he should stay in prison long enough tell dice might be made of his bones before I would Come to See him.

Thus hoping that his Slanderous tounge will not occasion you^r honors to looke vpon me with that Eye that m^r fogg would render me to be []

you^r hono^{rs} humble Sarvant

John Giffard

March: 5th 1674/5

The following account, for which Fogg sued, is in S. F. 1472.7:

Boston New-England Ann^o 1674

John Williams & Cap^t Thomas Frizell in consortship, to acco^t of Ezekiel Fogg & Comp^a are

D^r

May. 1

To Sundry goods bought of Ezekiel Fogg Viz ^t	<i>li s d</i>
1000. of. 4 ^d Nayles	£00:03:03
1000. of. 6 ^d Nayles	£00:04:06
1000. of. 10 ^d Nayles	£00:09:06
2. pitt Saws at .8 ^s per p ^s	£00:16:00
4 pair of Hose N ^o 51. at 4 ^s 6 ^d per pair	£00:18:00
4. pair ditto N ^o 52. 5 ^s per pair	£01:00:00
1. bedtick & boulster	£00:14:00
3 ^{li} of black & brown thred	£00:12:00
2 ^{li} ½. of whited brown N ^o 25	£00:14:06
2 ^c ½ of Needles .2/6 per ^c	£00:05:00
1. paper of Strapeing N ^o 1	£00:05:00
½. doz. of pinns N ^o 11	£00:08:06

	<i>li</i>	<i>s</i>	<i>d</i>
1. barrell of powder	£06:00:00		
12 ^{li} of Shott. 4 ^s	£00:04:00		
½. doz of Spades	£00:16:00		
5. rowles of Tobacco. w ^a 100 ^{li} at 4 ^d ½. per ^{li}	£01:17:06		
2. barrells of Molasses	£02:15:00		
1. bagg of cotten N ^o 1. q ^t 184 ^{li}	£04:19:08		
June 24.			
36. glasses	£01:04:00		
1. Cuttace	£01:15:00		
	£26:01:05		

Errors Excepted per mee Ezekiel Fogg

per Contra	Boston New-England. 1674.	Cred ^r
May 2.		<i>li</i> <i>s</i> <i>d</i>
By Cash received from Cap ^t Thomas Frizell		£10:07:00
By a discount with Arthur Mason for bread		£04:05:00
By a paire of Stilliards from Cap ^t Frizell		£01:12:00
		£16:04:00
Rest due to ballance per Contra		09:17:05
Summa		£26:01:05

Sworn in Court to bee a just & true acco^t both of debt & Credit, being compared with his Booke January. 26. 1675 @

as Attests Is^a Addington Cler.

The case was reviewed at the April session. See below, p. 685.]

SHIPPEN ag^t GIFFARD &^a

Edward Shippen Attourney to Henry Ross plaint. ag^t John Giffard & Ezekiel Fogg Defend^{ts} The plaint. withdrew his action.

CLARKE agt ALDEN

Majo^r Tho: Clarke plaint. ag^t Jn^o Alden Defend^t in an action of the case for withholding Six thousand foote of Merchantable boards which hee had order to deliver unto Majo^r Gen^l Leverett now Governo^r in the yeare .1664. [358] for which s^d Alden received his Freight Four pounds ten Shillings but hath not delivered the boards according to order; by which meanes J am kep^t out of my boardes & mony which J paide him for the Freight to my damage about twenty Five pounds and other due damages according to attachm^t dat. 19^o 11^{mo} 1675. . . . The Jury . . . founde for the plaint. that the s^d Defend^t John Alden do pay & deliver or cause to bee paide & delivered unto

Majo^r Tho: Clarke or his order Six thousand foote of good Merchantable board in Boston or Eighteen pounds in mony & costs of Court.

[Cf. Clarke v. Alden, above, pp. 213-14; the review in the April session of this year, below, p. 685; and p. 706.]

WHARTON &^a ag^t ELSON

Rich^d Wharton & Thomas Bendish in behalfe of themselues & Correspondants late Hirers & affreighters of the Ship Blessing plaint^s ag^t James Elson now or late Master of the s^d Ship Defend^t in an action of the case for that the s^d James Elson hath unjustly & indirectly in France rec^d into & still detaines in his hands the Summe of One hundred Ninety Seven Livers or thereabouts belonging to the pl^{ts} & their Correspondents which hee acknowledged to haue received & is so much more then the utmost penalty of a Charterparty, upon pretence whereof & of demorage due to the s^d Ship hee withholdeth the afores^d Summe, whereby the pl^{ts} & correspondents are damnified thirty pounds or thereabouts with other due damages according to attachm^t dat. January. 19^o 1675. . . . The Jury . . . founde for the plaint^s One hundred Ninety seven Livers or nineteen pounds Fourteen Shillings New-England mony & costs of Court. The Defend^t appealed from this Judgem^t unto the next Court of Assistants & himselfe principall in Forty pounds, m^r Peter Lidget & m^r Sam^l Shrimpton Sureties in £20 apeice acknowledged themselues respectiue bound to . . . prosecute his appeale . . .

[The documents filed with this case reveal an interesting and doubtless profitable triangular trade between Boston, the French West Indies, and France. First is the owners' letter of instructions to the master (S. F. 1430.2):

m^r James Elson

Boston November. 12th 1674

S^r wee having yesterday loaden yo^r Ship Blessing & finished what on our parts appertaines to yo^r dispatch, wee now advise & order you with the first opportunity of winde & weather to depart & Saile hence as directly as you can for the Jsland of Martineco & there apply yo^r selfe to m^r Clerbo Bergee or in his absence to m^r Augustin Melott & to attend their orders for delivery & dispatch of the Ship according to Charterparty, but in case you finde neither the s^d Gentlemen there, nor such other Order as may correspond with yo^r & o^r Security & the s^d Charterparty, then wee referr it to yo^r own discretion to gain the best advise you can for the disposall of yo^r Loading at Martineco or any other of the

French Jslands & receiving aboard again the effects thereof & such goods as may offer upon Freight to yo^r full loading & therewith to Saile to the port of Rochell in France & there wth the advice of m^r Bailly to receive yo^r Freight & dispose thereof & [o^r] effects aboard to the Satisfaction of yo^r Ship hyre & the remainder to leaue in his hands for o^r use; Also wee advise & order you that in case the Dutch haue made a conquest of that Jsland & so you bee debarr'd of trade wth French & Dutch, or in case you haue certain news of warr between England & France that then you either Saile to the Jsland of Barbados or Nevis as the winds may favour & you may judge most profitable & at either the s^d Jslands where you may arriue to deliuer o^r addresse unto m^r John Johnson at Barbados & to m^r Joseph Martine at Nevis & from them to receive & observe orders & direction for yo^r proceedure upon & conclusion of yo^r voyage according to Charterparty; wee also advise you that to prevent any disappointment to yo^r selfe of the hire of the Ship, that yo^w make all Freight payable to yo^r selfe by bills of loading, also for feare of death absence or other aduersities, wee haue advised o^r Freind to joine yo^r selfe with whome ever else they shall Nominate in the consignment of the proceeds of yo^r present loading, of w^{ch} wee desire you to take speciall notice that according to the honesty of our intentions our Stock with you & yo^r Ships earnings may first bee disposed to yo^r Satisfaction & the overplus remaine with o^r Freinds that may bee joined with you in the consignment or upon o^r acco^{ts} remitted to m^r Robert Bendsish Merch^t in London This wee hope may bee sufficient direction for the conduct of o^r buisness under yo^r charge; But in case of any such exigent or contingency as may render the observation hereof Impossible or pernicious then wee conceede that yo^r own discretion and the best advice you can obtain may direct you in the progress (as wee expect that common reason & equity should you & yo^r Owners in the issue) of yo^r Voyage, which wee shall pray may bee prosperous being.

Yo^r assured Freinds to Serve you

Richard Wharton

Thomas Bendish

Wee haue aduised our Freinds to supply any casuall want upon reasonable consideration, yo^r care over yo^r horsekeeper is desired, to take him into wages as hee may deserve after his present Service is ended, otherwise to dispose him into some of o^r Vessells, where hee may haue imploiment & passage home.

. . . true Coppie . . . Js^a Addington Cler

Several depositions follow:

S. F. 1430.9

William Geerish Chirurgion aged about twenty seven yeares Saith that hee lately belonging to the Ship Blessing James Elson Master in her Voyage to the Indies hee never heard or understood that the s^d Elson either protested or gaue any warning or notice to m^r Bergier when the time limited by Charterparty expired: and the Depon^t testifieth that hee hath sundry times manifested to the s^d Elson his dissatisfaction at the delay & loss of time in the west Jndies, and one time when m^r Bergier had been long absent & the Ships company had little to doe, the Depon^t moved the s^d Elson to send to m^r Bergier for orders or to know his intention & offered to goe himselfe to m^r Bergier if the m^r would hire him a horse (the way to traivail being very bad) but the s^d Elson answered that if the

Ship lay there a twelue month hee would not hire a horse, and that other times hee hath heard the saide Elson Say that all was bound over to him for the paym^t of the Ships hire, and if hee could but receive enough to pay the hire hee did not care; and sometimes upon occasion & when the Employers wrong & loss hath been spoken of, hee hath heard him say hee was not concerned for the Imployers, but the Owners interest or words to that purpose and the depon^t Saith that m^r Elson hath sundry times been spoken too to protest ag^t m^r Bergier, but his answer was hee had not power so to doe, and the Depon^t Saith that himselfe and others of the Ship's company did looke upon the Master to remiss in quickning m^r Bergier to a dispatch: And further the Depon^t Saith that hee findes by his Journall that the Ship stay'd at S^t Christophers from the. 16th till the. 26th of June & there delivered out two or three parcells of Sugar, the number of caske the Depon^t knows not; and the Depon^t Saith that the s^d Elson hath disc^{ted} with the depon^t two Shillings for every liver hee rec^d for his wages in France & further Saith not

Thomas Wilkott Marriner aged about. 35. yeares testifieth that hee knowes the Substance of what is abouewritten and deposed to bee true, hee being Boatswayne of the s^d Ship and perticularly the Doctors offer to goe to m^r Bergier if m^r Elson would hire him a horse & the m^{rs} answer was in the words or to the same purpose that the Doctor hath deposed, onely the depon^t Saith hee remembers not the M^{rs} expression that hee was not concerned for the Imployers, but hath heard difference between the m^r & Doctor upon acc^o of the Imployers interest: And that theire Stay at Christofer & Disc^t for the depon^{ts} wages was as the testimony aboue declares.

Sworn in Court by both witnesses. January. 26^o: 1675

as Attests. Js^a Addington Cler

There are others of the same tenor in S. F. 1430.12. Robert Sanderson and Jeremiah Dummer, the silversmiths, deposed (S. F. 1430.11) that the French crown was worth "not more than 5s 5d at most" in New England money; Augustin Mellot testified (S. F. 1430.8) that the ordinary exchange value of a "liver" from Boston to La Rochelle was 2s; but Peter Lorphelin deposed (S. F. 1430.10) that a friend of his had been able to obtain but 20d for a French livre in Boston.

Elson's bill of lading from St. Kitts to La Rochelle, and his letter of introduction from Clerbaut Bergier, follow (S. F. 1430.13, 6):

J James Elson Master under God of the Ship Blessing of Boston burthen two hundred tunns or thereabout being at ancor at present before S^t Christopher for & with the first convenient weather which God shall send to pursue the Voyage untill & before the City of Rochell where shalbee my direct unloading, do acknowledge to have received under the deck of sd Ship of you Clerbaut Bergier the goods following viz^t two hundred Forty hh^{ds} & twenty quarter casks of Muscovado Sugar which are going for the acco^{ts} & Riscos of m^r Wharton & Bendish Bertram Servant James Elson William Gerrish dwelling in Boston, which Merchandizes J promiss to deliver in Rochell unto m^r Debaussay, John Bailly and the s^d Cap^{ne} or unto his order Factors or Intermedler the danger of the Seas excepted of which

God keepe us: For the fulfilling of what about J haue obliged by these pu^rsents my body goods & my s^d Ship Freight & apparrell in Showing mee one of those bill of loading, & the s^d Debaussay Bailly &^a shalbee bound to pay mee for my Freight of the s^d goods the Summe of ten deners per pound & shall cleare the company & other advarages & duties accustomed. Jn Witness whereof J Master abouementioned James Elson haue Signed of my hand three bills of loading . . . made in S^t Christopher the fifth day of the month of July. 1675.

Received the number of Casks the quantity & contents not known.

Per mee James Elson

. . . true Coppie . . . Js^a Addington Cler

In S^t Christophers the 6th July. 1675.

S^{rs}

As m^r Richard Wharton & Thomas Bendish M^rchants in New Enland haue directed here to mee the Cap^t James Elson present bearer with order to direct him to you, w^{ch} J do & according to the order w^{ch} they ought to have given you, you shall dispose of the Cargo wholly seeing that it is for the produce of their goods, as you shall see by the bill of loading herewith: they did promiss to send mee other Ship, which J haue order also to direct to you J conclude assuring you that J am

Yo^r humble Servant

Bergier

To m^{rs} Devanpray Senio^r & m^r Bailly merchant Jn Rochell

. . . true Coppie . . . Edward Rawson Secret.

Captain Elson explained these proceedings in the following deposition (S. F. 1430.14):

Boston the 17th of December. 1675

The deposition of James Elson Master of the Ship Blessing aged about. 32 yeares testifieth & Saith

That according to the orders of m^r Richard Wharton & m^r Thomas Bendish to whome the Ship Blessing was let per Charterparty, J applied myselfe to m^r Mellot of Martineco, to whome J was ordered in the absence of m^r Bergier, & by virtue of s^d Mellots order J sailed s^d Ship to Guardeloop where find s^d m^r Bergier J attended his order & sailed the s^d Ship from Jsland to Jsland with him the s^d Bergier & by his order for the unloading & reloading the Ship & that no time was spent with s^d Ship in the west Indies or on the Voyage but by s^d Bergiers order, to whome J was consigned with the Ship, who also was concerned $\frac{1}{4}$. part of s^d Ships Freightment as m^r Richard Wharton told mee here, before wee sailed hence: Also that assoon as the Ship was loaden in the west Indies m^r Bergier gave mee his orders to Saile the Ship to Rochell & consigned the same to m^r John Bailly there, where after the delivery of the Ship J made up an acco^t with s^d Bailly for the Ships hire and demurrage & is now in Court who paide mee the full of saide demurrage for the persons concerned in France, and J urging for all according to s^d Acco^t so made up, hee refused for m^r Whartons & m^r Bendish's parts for want of effects as appeares per the protest now in Court: And for my not protesting in the west Indies as m^r Wharton urges J could not doe that hee having a liberty per the Charterparty, paying 55. livers per diem till his orders

in the Indies could dispatch the Ship, and for the dayes of demurrage & times of the Ships arrivall at the severall ports, is justly expressed in the acco^t made up with m^r Bailly which acco^t is now in Court under saide Bailly's hand, and further that J am no waies concerned in this case but as Master of the Ship in behalfe of the owners: And further this deponent saith that hee received of m^r John Bailly for so much of the produce of the Cargo as hee carried from the west Indies together with the Freight that the Ship made to Rochell but twelue thousand five hundred eighty Six livers Seventeen Sous & four deniers as m^r Bailly told mee it produced, & that the two thousand Six hundred [*torn*] eleven Livers eleuen Sous four deniers hee advanced for the [*torn*] demurage of the Ship for the persons which lived in Fran[ce] & told mee hee would not advance anything for m^r Wharton [*torn*] Bendishs parts having no effects of theires in his hands & furth[er] saith not:

Deposed in Court the. 17th Decemb^r 1675. the Master adding that hee was not concerned otherwise then m^r of s^d Ship.

Edw^d Rawson Secret.

. . . true Coppie . . . Edward Rawson Secret
Copia Vera . . . Js^a Addington Cler

The owners, not liking these proceedings, wrote to Michel Boucher, merchant of La Rochelle, a letter (S. F. 1430.3) which reveals more respecting the fish trade between New England and France.

M^r Bourcher

Boston January 28: 1675

S^r yo^{rs} of the 25 of March and 5th of Aprill last wee received, Togeather with The protest of y^e Bills of Exchange M^r Bergier drew, and by a post Script to yo^r last y^w Intimate a possibility of getting paym^[t] M^r Bayly being Concerned in M^r Bergiers business, wee haue ever since Expected To haue had yo^r advice, what Success y^w had in the matter and for want thereof haue been at Some loss how to Deale wth M^r Bergier, but receiving noe new orders, or advice, from y^w, and he [ariv]ing heer without any estate, and in Expectacion of Some Supply from France (which also faild) wee were forced To make a Vertue of Necessity, and Take an Assignacion from him of his Concerne Sent [home] in y^e Severall Ships from y^e Jndyes, great part whereof he protests he purposely Devoted and Directed To yo^r Satisfaccion, And he Seems To be much Concerned That his effects should be Intercepted, or misimployed, Wee heerwith Send y^w y^e sd Assignacion and Sundry Bills of Loading and of Exchang, To Jnforme y^w what sd Bergier hath sent, and To whom; Particulerly y^w will receive a Bill of Loading Signed by James Elson for 46: hhds of Sug^r Eleven baggs of Cotton wooll, and some other Small matters, Togeather wth y^e Sd Elson and his Chirurgeons oath, Jndorsed upon y^e s^d Bill That y^e Sd goods were Delivered To M^r Bayly, By all which (if y^w haue not already received Satisfaccion) wee doubt not but y^w wilbee inabled To recover yo^r right; S^r For want of acquaintance wth M^r Bergier, when he arived heer wee haue not onely Created this trouble to y^w, but great Damage and loss to our Selves, and Sundry of our friends, And wee Canot Thinke y^t M^r Bayly hath been [Kind] unto us, in recomending M^r Bergier to us as y^e person whom he advised us To Consigne his our owne & friends Concernm^{ts} to in y^e West Jndyes, for before M^r Bergier arived heer M^r Bayly Sent M^r Mellott hither, with a licence or passport for an English Ship To Trade in y^e French plantacions, and acquainted us That soone after he [would] send us more passports, for more

ships and then M^r Bayly prop[ound]ed to us to Concern our selvs and friends w^t part wee pleased in y^e [sd] Ships loading, and Cargoes, and gaue Instruccion in writing to y^e sd Mellott, what Cargoes To provide for Louding of sd Ships, Expressly injoyning That Such Ships should be Consigned to To his Coos: M^r Clerbo Bergier, And [w]ee by our advice were to [lae] our Dirrections from y^e Instruccion given M^r Mellott; and Indeed by y^e rep^sentacion of the affayres to us, wee thought M^r Bergier had been of great account, and reputation, and the onely person who by his Interest had obtayned those licences, and none else Capable enough to Improve them, — Besides M^r Mellott then heer Concealed M^r Bergiers Condicion from us and gaue us all Jmaginable Jncouragem^t To Credit and Concern ourselves & friends with M^r Bergier, By which and what wee further p^sume To Trouble y^w with, y^w will See y^t wee haue been insnared for want of good advice from M^r Bayly and M^r Mellott,

with This y^w will receive yo^r acc^o of Sales, and acc^o Curr^t w^{ch} wee purposed to haue ballanced in y^e Sommer, But a Ship y^t M^r Bayly sent hither by w^{ch} wee reed yo^r protest, Kept us in Expectacion of it till y^e Summer was passd, and all our Bilboa fleet gone, and afterwards y^e person Jntrusted with y^e Direccion of sd Ship went with her to y^e Jndyes, nor hath any other ship gone this yeare To Rochell y^t wee know of, and our Concerns there are Soe Small That wee found not occasion to hire one, And now meeting with This oppertunity for Bourdeaux, wee haue shipd for acc^o of Some Gentlemen there Some Small quantity, and should haue shipd y^e full ball^{co} of yo^s alsoe, for y^t port But y^e unseasonable weather & y^e great hinderance that thereby hath happend in her Loading, hath made us Jmbrace another way, that wee hope may be more advantageous to y^w then to send y^w fish that in probability would Come to late for y^e Lentt, Therefore wee send y^w Bills of Exchg Drawne by Captⁿ Jⁿ Phillips and one of us, upon M^r Bayly for £2117:08:07^d; and in Case he refuse acceptance and paym^t wee haue made an Assignment to yo^r Selfe, with Sufficient prooffe annexed that he hath soe much of y^e Drawers in his hands, w^{ch} for want of good advice from M^r Bergier he Detayned from Captⁿ Hobbart, as supposing M^r Bergier and himselfe Concerned, whereas there was a Division (according to agreem^t) made in y^e Jndyes, and the part that belong[s] to M^r Bergier and M^r Bayly left in M^r Bergiers hands Jf y^w please To read y^e papers relateing heerto y^w will Clearly See That y^e Ship Katherine was loaden heer for y^e French Jslands, & the Cargoe sent thence in Company halfe Captⁿ Phillips & Wharton, & halfe for M^r Bergier and M^r Bayly, and that y^e Sugar produced with the sd Cargoe was to be Divided in y^e Judges, and the halfe belonging to y^e Concerned heer to be Delivered to C^t Hobbard Comander of y^e Ship and in y^e Ship to be Carryed to Rochell for acc^o of of the Concerned heer, and upon their adventure [&] M^r Bergier to Dispose of the other halfe for acc^o of himselfe and M^r Bayly which might alsoe haue Come for Rochell in ye Same Ship if M^r Bergier had seen it good, but it seems he otherwise Disposed of it, And when y^e Ship arived The Master Confeiding in M^r Bayly Comitted the Sug^s That belonged to his Jmployers heer to M^r Bayly to sell w^{ch} when he had Done although he passd his receipt upon y^e Bill of Loading, yett upon p^tence of his and M^r Bergiers Interest he Detayned y^e aforesd sume of £2117:8^s7^d in his hands y^e Reasons y^w will find in his letter heerwith sent y^w, and wee Doubt not but when y^w shall make Demand and Comunicate y^e assignm^t and evidences but y^t he will accept and pay the bills, and lest y^w should Sustayne any wrong by this Exchange, wee Doe oblige ourselvs That whatsoever y^e Samme Valew laid

out in fish would, or Doth yeild when this ship arives, Clear of Charge wee will allow it to yo^r acc^o, upon yo^r advice and onely Deduct this Summe; if y^w receive it, and in regard there is a probability of Some Trouble in y^e recovery of This Summe, wee shalbee willing To recompence it by freeing y^w from y^e adventure of y^e Sea, and making soe much money good to yo^r acc^o as y^e fish that might be purchaced wth what is yo^r Due heer may yeild Clear in France, w^{ch} wee hope wilbee soe Satisfactory to y^w as to perswade y^w To Jndeavour y^e recovery of this Summe thus assigned y^w, M^r Mellott is now with us and before he parts wee will efectually provide That y^e Money he was To remitt y^w shalbee paid with Due Consideracion and that & what more may be Due to y^w shalbee sent y^w by Exchange, or in fish logwood, or hides as y^w shall Direct, wee Could Send y^w plentiful Testimony of y^e bad Condicion of yo^r wyne, but none y^t any thing Considerable was Damnified aboard, but yo^r Cooper had been Very negligent in putting it into Corrupt and Crazy Caske, Those y^t bought it haue Considerable part by them, w^{ch} they Can neither Sell at any price nor turne To Vinegar, wee are heartily Sorry y^t wee Can giue noe better Jncouragem^t To y^t Good Disposicion y^w manifest to a Trade to this place, all lynnens Silks & Dry goods are Very Plentifull & Cheap, and Soe like to Continue y^e next year By Reason of warr, with y^e Salvages which Doth much obstruct trade, Wheat Rye Brandy Some Sound wyne and Vinegar will probably sell to good advancke, And if it be yo^r pleasure To make Tryall To recover yo^r first loss, wee Judg y^w may receive good advice from one M^r Jⁿ Toton, of yo^r owne nacion, that Comes in in this shipp — he is well Knowne to M^r Bayly, and well Knows y^e state of this Countrey, and hath a good reputacion amongst us, and if y^w Concern yo^r Selfe with him, or any other y^t may Come over, one of us will readily assist them but shall not otherwise Meddle with any of yo^r affayres, Till by a better occasion yⁿ y^e form^r wee may assure y^w that wee are

S^r yo^r Faithfull Serv^{ts}

Richd Wharton & Comp^a

S^r Jn Case y^w faile of Satisfaccion for y^e form^r Bills of Exchange if y^w Can procure an assignacion of M^r Duportand for y^e Bill of Loading Signed by M^r Elson & send over with M^r Bergiers assignacon now Sent y^w wth good evidence wee shalbee able To recover y^e Goods of s^d Elson in regard he Delivered them not according to Bill of Loading

Fish hath all this Summer & autumne been 20^s at least 19^s it is now 15^s per Q^l and about 3^d Charg in shipping.

R W

From Boucher they received the following notary act (S. F. 1454.1 — apparently the original):

Generalité	[Coat]	de Poitiers
petit papier	[of Arms]	un sol
pour		feuille

Aujourdhuy Neufiesme Apuril mil six cens soixante seize le Requeram le sieur Michel Boucher marcham de ceste ville y demeuream Rue du temple parroisse de saint Sauueur, Moy notaire Royal rezerué en la ville de la Rochelle soubzsigné me suis aueg luy transporté en la maison et domicile du sieur Jean bailly aussy marcham en ceste dite ville s[i]zé rue de saint yon dite parroise de saint Sauueur

ou estam parlam a la personne dudit Sieur bailly, ledit sieur boucher a presenté et fait voir vne lettre dechange Escripte descripture et langue angloize dom la teneur sur la traduction quy en a esté faite de ladite escripture, en celle francoize suit, a boston janvier 26. 1675 stile dangleterre, a vingt Jours de veue par cette nostre première dechange, nostre seconde et troisieme nestam point payée, Payez a mons^r michel Boucher ou ordre la somme de deux mil Cem dix sept liures pour valleur Receue jcy Ne menques pas de faire bon payeman Et postez le mesme comme par aduis et compte de Vos seruiteurs John phillips, Richard Warton, a Costé a monsieur Jean bailly marcham a la rochelle, comme aussy a ledit Sieur boucher présenté audit sieur bailly la lettre dauis a luy escripte par les tireurs de la lettre dechange dom est question dattée de boston le 26. Janvier 1675 Escripte aussy en langue Et Escripture Engloize laquelle ledit sieur Boucher apres auoir Icelle parraphee de son paraphe ordinaire Ne varietur la offerte dellirer et mettre es mains dudit Sieur bailly, Sommam. Icelluy djcelle prendre et [Rece]luy, et de presenteman accepter ladite lettre [de]change sus dattée et dom est question pour la payer dans son temps, Protestam ledit s^r boucher que faute de ladite acceptation Et payeman et du Conteneu en Icelle jl poursuiura en justice ledit Sieur bailly aux perils risques et fortunes desdits Phillips Et Warton en vertu de leur procuration Et pieces Justificatifues quils luy om enuoyé a cest effet Et dom dutom jl donnera Coppie audit bailly, la traduction estam preallablemam faite, le tom Soubs les protestations expresses que fait ledit Sieur Boucher par ces presentes denestre veu A prouuer les remizes faittes par lesdits phillips Et Warton audit boucher en lettres dechange dom celle cydessus fait partye et de se pouruoir contre et sur les effets djceux phillips Et Warton pour ce quy luy est par eux deub, Et Encore tam contreux que Contre ledit bailly pour raison de la susdite Lettre dechange susdattée dechange Rechange frais des [pans] dommages et Interrests, mesme de prendre pareille somme de deux mil Cem Dixsept liures auchange Et generallemam de tom ce quil peut et doit protester en Rencontre semblable et de ses droits contre les Vngs et les autres A quoy ledit sieur bailly a fait response quil ne vouloit accepter ladite lettre [de]change my payé le conteneu en [jcelle] pour nauoir aucunes prouisions ny ne debuoir aulcune chose aux tireurs et que les protestations contre luy faites ne luy puisse nuire ny prejudicier, Et a seullemam pris et Accepté Ladite lettre dauis paraphée que dite est cydessus, duquel reffus dacceptation ledit sieur boucher a requis acte et de ce quil a persisté Es susdites Sommacions et protestation, ce quy luy a par moy esté octroyé Ensemble de ce que jay audit sieur bailly dellaissé coppié des presentes a la rochelle Le jour et an de lautre part presensts tesmoins Jean parier et anthoine billé clerg demeurams en ladite Rochelle Et a ledit bailly Refuze de signer quoy que requis de le faire. Signe en la [] des presentes M. boucher, J. parier, Billé et bourot no^{re} royal a Costé est escrit Co[] a la ro^{ll} le 10 apuril 1676 folio 205 du xix registre

Bourot

Notaire Royal

Wee Whose names are Vnder Written English Merchants Resident in Rochell do Certifie all Whome it May Conserne that the a Boue named Bourot is a Notaire publique ordained by the king passeing all acctts of Iustis according to Law as Wettnesses our hands in Rochell the 22th Ieune 1676

Andrew Stirckey & C^o.

Andrew: Whitley

[Endorsed:]

Sommation le sieur Michel Boucher Au sr Jean Bailly 1676

Protest de la lettre de 2117^{li} sur monsieur Bailly

The Court of Assistants (Records, i. 58) upheld the verdict of the lower Court and ordered Elson to pay 14s additional costs.]

BOZWORTH ag^t MOULDER

Samuel Bozworth Assigne of Robert Harwood plaint. ag^t Nicholas Moulder Defend^t The plaint. withdrew his action. [359]

LITTLE ag^t ADAMS

Jsaac Little plaint. ag^t Alexand^r Adams Defend^t in an action of debt of Sixteen pounds thirteen Shillings & Six pence in mony due for twenty tunns & thirty six foote of Ship timber delivered by the s^d Little or his order to the s^d Adams in Boston at Sixteen Shillings per tunn according to agreem^t with all other due damages according to attachm^t dat. 22^d of Octob^r 1675. . . . The Jury . . . founde for the plaint. three pounds two Shillings six pence mony & costs of Court.

SANDFORD ag^t ORCHARD

Robert Sandford plaint. ag^t Robert Orchard Defend^t in an action of the case for running a halfe pike or instrument into the side of a horse of the s^d Sandford of which wound made thereby the s^d horse dyed to the great damage of the s^d Sandford according to attachm^t dat. Octob^r 30th 1675. . . . The Jury . . . founde for the plaint. for this damage that comes by the Stabbing his horse Seven pounds mony & costs of Court. allow^d twenty nine Shillings ten pence.

Execution issued 17^o Nov. 1679.

[This case was retried in April, 1681, too late to be covered by this book. From documents filed with that case, it appears that it grew out of service in King Philip's War.

The following is from the Reasons of Appeal of Joseph Holmes, Sanford's attorney, dated September, 1681 (S. F. 2013.4):

3 from the merit of the case: tis svfistiantly prooved that orchard killed Sanfords hors and that with ovt any Just cavs and thear fore tis bvt an honist thing that he shoold pay for him and not the contry as orchard woold have it nor shoold sanford loos his hors and so good a hors as he was and so baisly killd as is evident from the testimonys he was the witness say thear was a fenc between the men and the horsis and orchard only he and with his havlf pick and sav

him stab the hors and sav him pvll hard to pvll his havlf pick ovt of the hors and saw the blood gvs ovt and when he had don denyed it and woold have hid it if posibill he covld and now he woold insinvate as tho he killed the hors for his own saifte and the saifte of his men so he swor at aprill covrt how thear can be any trvth in it I leve to this honnerd covrt and gentillmen of the Jvry to Jvdg. . . .

S. F. 2013.7

The testimony of John Howard aged about .30. yeares testifieth and Saith that hee this deponent drove Robert Sandfords horse with his own horses to Swanzey and the s^d Sandfords horse being the horse now in controversy, was a very Stought Serviceable horse and performed his Service better then any horse there; Also hee this deponent Saith that hee comming from a meadow with his own horses to the yard where this horse of s^d Sandford stood, severall of the Souldiers came to me and told me that the horse that came thither in that cart J came with is stabbed, J asked them who did it they told me it was Robert Orchard and they went to the bundle of pikes and brought me a halfe pike that was bloody at the end and bowed and said this was the pike that did it

Sworn in Court. January. 26: 1675. as attests Js^a Addington Cl^{re}

Copia vera attest^r Js^a Addington Cl^{re}

Other depositions are in S. F. 2013.8, and Orchard's answer to Holmes is in S. F. 25899:

3^dly To y^e merit of y^e case as he calleth it I answere y^t whearas he saith it is suffittiantly proued y^t I Killed Sandfords horse and that without any just cause: Theare was neaur any evidence in Court y^t Sandfords horse is dead much Lesse y^t I Killed hime for if it weare True as is affirmed: Yet Sandford had noe horse theare for what horses was theare was y^e Cuntryes and whearas hee saith y^t I would haue y^e contry to pay for y^e horse it is a great mistake for I doe not concearne my selfe wth any such thing, but I sue for my owne money y^t was unjustly taken away from mee by Sandf[ord] as for y^e rest of his Allegations I answere thus it was that when y^e army removed from Swanzie to Naraganset y^t the counsell Left mee in charg[e] wth y^e garison at Swanzie when Capt Huchinson returned wth y^e Article[s] of peace from Naraganset after I had re[ceued] hime into y^e garison hee tould mee I must furnish hime wth horsses and other nesesyarys for Boston wheare vppon I comanded A file of musqueteeres to fetch mee vpp sume horsses which accordingly was done and they were tyed to A fenc among which were two Stone Horsses which were A fighting and bro[torn] there fast and Brock downe y^e fenc and came among our men and y^e Indians y^t satt Downe under y^e fence and whearas he sayth y^t I would insinuate by my swearing y^t I Killed y^e horse for my one defenc[e] and y^e defence of my men y^e Court may please to remember y^t they tou[l]d mee in open Court that if I could say that what I Did was for my nesesyary Defence and Safety and preceruation of my men y^t it would bee sufficient soe y^t I was called by y^e Court to testifie to y^e Truth of that pertiquelar therfore noe insinuation and this I could haue proued had I not beene under great Disadvantag when hee Arested mee just when I was goinge for England and had not Time to prouid to defend the case so y^t noe defence was made but had Robert Sandford beene honest in causing his evidences to sweare y^e whole Truth it would haue sufficiently proued y^t what I did was in my own Defence and for y^e safty of my men but he got hi[s] evidences

to y^e Beare Taverne and ther writt what would serue his own turns as they haue since informed mee and are redy to testifie if New Euidences might be admitted that y^e horse came open mouthed at me and forssed me to jumpe ouer a w[e]ll and had Like to haue pawed me under hime when I went to part them

Lastly — y^e Honoured Court and Gentlemen of y^e Iury may please to take notice of y^e error of y^e first jury not only in that there was noe horse pro[du]ced to bee dead but in ouer rating y^e supposed dead horse contrary to law w^{ch} saith noe horse shall bee rated aboue Thre pounds in y^e Cuntrys Service but they haue giuen hime seuen pounds for a horss w^{ch} if euor was his it is unknowne to me but howeuor it was y^e Countrys horss w^{ch} none will gainsay or Question

and further if y^e Honoured Court and Gentlemen of y^e Iury will please to Consider and compare y^e Attachment and his euidences toget[her] I dare prsume they will finde it a Very strang Verdict and indeed there is noe two Euidences speaks one thing y^t is essentiall to his Case: Thus hopeing y^e honoured Courte and Gentlemen of y^e Iury will See Cause to confirme y^e Iudgment of y^e Last Court wth other Due Dammages

I subscrib Yo^r Humble seruant

Robert Orchard]

BARNES ag^t BATT

James Barnes plaint. ag^t Paul Batt Defend^t The pl^t withdrew his action.

TYNG ag^t COOKE

Edw^d Tyng Esq^r Treasu^r plaint. ag^t Francis Cooke Defend^t This action was continued untill next Court.

HUDSON ag^t HORD

Cap^t W^m Hudson plaint. ag^t John Hord Defend^t The plaint. non-Suted upon nonappearance.

HUDSON ag^t DANIEL

Cap^{tn} W^m Hudson plaint. ag^t John Daniel jun^r Def^t The plaint. withdrew his action.

CROSBY ag^t ADAMS

Joseph Crosby plaint. ag^t Joseph Adams Defend^t the plaint. withdrew his action.

LYNDE ag^t TRUMBEL

Simon Lynde plaint. ag^t John Trumbel junio^r Defend^t in an action of the case for an account of One thousand five hundred foote of Merchantable pine boards laden by the s^d Lynde on board the Catch

SeaFlower bound [360] for Jamaica, whereof hee the s^d Jn^o Trumbel junio^r was Ma^r as per receipt may appeare with the produce thereof with all due damages according to attachm^t dat. x^{br} 17th 1675. . . . The Jury . . . found for the plaint. nine pounds eighteen Shillings in mony & costs of Court twenty six Shillings & two pence.

Execucion issued Feb^{ro} 16^o 1675

LYNDE ag^t TRUMBEL

Simon Lynde plaint. ag^t John Trumbel junio^r Defend^t in an action of the case for an account of the severall voyages made by the Catch SeaFlower, whereof hee the s^d John Trumbel was Master from October Anno. 1669. wth the produce of the eight part thereof, as also for an account of the one eighth part of the s^d Catch SeaFlower & her Furniture & appurtenances with the produce thereof with all due damages according to attachm^t dat. x^{br} 17th 1675. . . . The Jury . . . founde for the plaint. that the s^d Defend^t John Trumbel do give in to the s^d m^r Lynde plaint. a just & true acco^t of the pu^rmisses Sued for according to attachm^t within the space of nine weekes next insuing or pay unto the s^d m^r Lynde the Summe of thirty pounds in mony & costs of Court.

JESSON ag^t BUSHELL

Jacob Jesson plaint. ag^t Edward Bushell junio^r Def^t in an action of the case for not drawing bills of Exc^a to the value of two hundred pounds upon m^r Scott & m^r Ralph Lane merch^{ts} in Barbados payable Forty two dayes after sight unto s^d Jesson or assignes in good Merc^a Muscovadoes such as shalbee to the acceptance of s^d Jesson or order at ten Shillings six pence per hundred accounting one hundred & twelue poundsuttle to a hundred to bee delivered aboard any vessell or vessells in the Rhode of Barbados in sufficient caske most hogsheds & the rest butts well filled cleere of all custom & other charge whatsoever as per an agreement under the hand of s^d Bushell may more fully appeare, to the damage of s^d Jesson One hundred & Eighty pounds mony or thereabouts with all other due damages according to attachm^t dat. January. 14^o 1675. . . . [361] The Jury . . . founde for the Def^t costs of Court.

January 24^o 1675

DAVENPORT to SHIPPEN

Francis Davenport personally appeared before Edw^d Tyng & Tho: Clarke Esq^{rs} & confessed judgem^t ag^t himselfe & Estate unto Edw^d Shippen for Seventeen pound ten Shillings & six pence lawfull mony of New-England according to bill on file bearing date Aug^o 26th 1675 m^r Edw^d Shippen appear^d in the Office Feb^r 25^o 1675 & acknowledged hee was fully Satisfied for this judgement.

attests. Js^a Addington Cler

PEACOCK to BRATTLE

Samuel Peacock personally appeared before Simon Bradstreet & Edw^d Tyng Esq^{rs} January. 25^o 1675. & confessed judgem^t ag^t himselfe & Estate unto m^r Tho: Brattle for Eighteen pounds seven Shillings nine pence according to Acco^t to bee paide ten pounds in mony & the remainder in provisions at mony price or mony.

as Attests. Is^a Addington Cler

Execucion issued 21^o March: 167⁶/₇

MARSHALL to BRADSTREET

Captⁿ Tho: Marshall of Lynn personally appeared in Court January .25^o 1675. & confessed judgem^t ag^t himselfe & Estate unto the Worpp^l Simon Bradstreet Esq^r for One Hundred pounds to bee paide in mony or corn to bee delivered at Boston at mony price.

as Attests. Js^a Addington Cler

a Freeman Sworn

Tho: Mihel of Milton tooke the Oath of Freedom of this Colony.

GIFFARD &^a to SHIPPEN

John Giffard & Ezekiel Fogg appeared in Court 26^o January. 1675. & confessed judgem^t ag^t themselues & Estates for thirty one pounds mony of England unto Edward Shippen Attourney of Henry Ross Citizen & Upholder of London according to bill on file dat^d 16^o 7^{br} 73. wth damages

Execucion issued March. 15^o 1675/6.

[Cf. Fogg v. Williams, above, pp. 656-60.]

NASH discharg^d

James Nash Senio^r of Waymoth being present^d for disturbing m^r Torrey in the worke of the Ministry on the Sabbath the presentm^t not being proved fell.

JAY Sentenc^d to pay £100

Thomas Jay of Hingham being imprisoned till this Court to answer for his vilifying & reproaching the Hono^r^{ble} Josiah Winslow Esq^r Generall, the authority of the [362] Country & other misdemeano^{rs} The s^d Jay being called for, the charge & Evidences produced ag^t him were read & his answer & defence heard; which the Court having duly weighed & considered do disfranchise the s^d Tho: Jay declaring him to bee no longer a Freeman of this Jurisdiction & Sentence him to pay One hundred pounds in mony as a fine to the County, to pay one £50. thereof before hee bee released from prison & to pay the other £50. when demanded by the Court & to giue in bond with Sureties of two hundred pounds for his good behavio^r during the pleasure of this Court & to pay charges of prosecution Fees of Court & prison standing committed untill this Sentence bee perform^d

SAM: Indian admonish't

Sam: Indian being complained of & imprisoned for his dalliance with & frighting of a little English girle; The Court having heard & considered of what was alleaged against him do Sentence him to bee admonish't & to pay charges of prosecution & Fees of Court & prison Standing committed &^a

MARY WHARTON Sentenc^d the wife of PH: WHARTON

Mary Wharton being complained of & imprisoned for unclean carriages with Ezekiel Gardiner The Court having heard & considered of what was proved ag^t her & what Shee herselfe confessed do Sentence her to bee whip't severely with thirty Stripes at a carts tayle from her own house to the prison & then to bee committed to the house of correction there to bee kept according to the order of the house untill the next Court of this County & to pay Fees of Court standing committ^d &^a

PAINE Sentenc^d

Sarah Paine convict by her own confession in Court of committing Fornication with one Dennis Hill by whome Shee hath an illegitimate Childe, The Court Sentenc^d her to bee whip't with Fifteen Stripes or to pay Five pounds in mony as a fine to the County & Fees of Court standing committ^d &^a

PAIGE admonish't

Nicholas Paige present^d for travelling from Waymoth to Boston on the Sabbath which hee owned, The Court Sentenc^d him to bee admonish't & to pay Fees of Court.

BULL admonish't

John Bull present^d for travelling as aboues^d The Court Sentenc^d him to bee admonish't & to pay Fees of Court

ATKINSON und^r a penalty

Theod^r Atkinson present^d for letting his Cellar dores lye open & his Cellar often halfe full of water dangerous for passengers The Court Orders him to make [363] up his Cellar dores between this & the next Court of this County under the penalty of Five pounds in mony.

BELCHER'S Estate Setled

For the pu^rsent Setlement of the Estate of Gregory Belcher of Brantery dec^d It is Ordered that his widdow Katharin Belcher haue all the movable Estate left by her late husband Gregory Belcher to bee to her & her heires forever, and that Shee haue that part of the dwelling house & appurtenances which Shee now enjoyes to liue in during her life: and that Shee may dispose & make Sale of any part or parts of the Lands to pay debts (her Sonns having consent^d thereunto) and that Shee emproue by Sale or otherwise the rest of the Estate for her own maintenance during her life & what remaines of the Estate at her decease to bee devided by the Court amongst the Children that haue a right thereunto.

SPUR admonish't

Robert Spurr of Dorchester being presented for entertaining persons at his house at unseasonable times both by day & night to the greife of their wives & Relations &c The Court having heard what was alleaged & testified ag^t him do Sentence him to bee admonish't & to pay Fees of Court and charge him upon his perill not to entertain any married men to keepe company with his daughter especially James Minott & Joseph Belcher.

THAYRE discharg^d

Rich^d Thayre present^d for Selling drinke to the Jndians The presentm^t not being proved fell.

EVERILL discharg^d from trayning

James Everill by reason of age & other infirmities is discharged from attending upon ordinary traynings in the military Company under the command of Cap^t Daniel Henchman or any other Company in which hee may liue, keeping armes in his house according to Law.

JAMES discharg^d from trayning

Gaudy James by reason of age & other infirmities is discharged from attending upon ordinary traynings in the military Company under the command of Cap^t Dan¹¹ Henchman or any other company in which hee may liue, keeping armes in his house according to Law.

Courts Sence how Cap^t SCARLETTs debts shalbee paide.

Vpon the motion of m^r Jn^o Scarlett Exec^r & Cap^t Tho: Lake & Cap^t John Richards OverSeers of the last will & testam^t of Cap^t Sam¹¹ Scarlett dec^d (in behalfe & upon the desire of m^{rs} Mary Scarlett his Relict & Exec^x) for advice in their more cleere acting with reference to the due execution of s^d will according to the true intent & meaning thereof The Court having perused the will do declare their Sence [364] & judgem^t therein to bee, that the debts due unto the Estate bee forthwth gathered in, & that the debts oweing from the Estate bee paide out of the same.

Attachm^t to issue for KINGMAN

Ordered that an Attachm^t issue forth for the next Court ag^t the Estate or person of Edw^d Kingman of Waymoth for him then to appeare.

WEBB appoint^d to bee Marshall & Sworn

Joseph Webb is appointed to bee a Marshall for the County of Suffolke & Sworn to the due Execucion of his office January. 29^o 1675.

SHRIMPTONS Adm^{rs} Liberty

Liberty is grant^d unto the Adm^{rs} of the Estate of the late m^{rs} Mary Shrimpton dec^d untill the next Court of this County to bring in an Inventory of that Estate.

GIBBS Sentenc^d

Mary Gibbs being present^d for lascivious carriages & suspition of adultery The Court having heard & considered of what was alleaged & proved ag^t her Sentenc^d her to bee whip't at the cart's tayle with twenty Stripes in comp^a wth Mary Wharton from her house to the prison & to pay fees of Court standing committ^d &^a

HYDE a Quaker discharged

Joane Hyde being committ^d to prison as a vagabond Quaker; upon her motion to the Court & desire that Shee might return to Rhode Jsland whence Shee came & where Shee Saith Shee intends to Settle: The Court discharge her from the prison & grant her Liberty to return to Rhode Island.

This Court dissolved January. 29^o 1675.

 HUKELY to RAWSON

William Hukely of Newichewanick personally appeared before the Honord John Leverett Esq^r Gov^r & Edw: Tyng Esq^r Assist. march. 27^o 1676. & confessed judgem^t ag^t him selfe & Estate unto William Rawson for Forty pounds in mony in Satisfaction of a bond on file bearing date Sept^r 9^o 1675.

as Attests Is^a Addington Cler

Execucion issued March 28^o 1676. [365]

[S. F. 1469.1]

To the Marshall of the County of Suffolke or his Deputy

In his Ma^{ties} name you are Required to Levy by Execution upon the Estate or person of William Hukely of Newichewanick in mony the Summe of Forty pounds with two Shillings more for this Execution & deliver the same unto William Rawson; which is in Satisfaction of a Judgement the s^d Hukely confessed against himselfe and Estate for so much before the Honord John Leverett Esq^r Gov^r and Edw^d Tyng Esq^r Assist. March. 27^o 1676. in Satisfaction of a bond on file, bearing date Sept^r 9^o 1675. & hereof you are to make Return according to law, and not to faile. Dated in Boston March. 28^o 1676. @

By the Court Js^a Addington Cler

The Return

J have extended this Execution upon the person of William Hukely, hee having no Estate to shew mee as hee saide, but was willing and J did commit him unto m^r William Rawson to bee at his dispose to Serve the debt out with him or any other that hee should dispose him to, this twenty eight day of March One thousand Six hundred & Seventy Six

per mee Joseph Webb Marshall

. . . true Coppie . . . Js^a Addington Cler

See case of Briggs v. Hukeley, below, p. 712.]

County Treasuro^r

The Commission^{rs} of the severall Towns of the County of Suffolke for opening of the votes for election of County Treasuro^r met at Boston March. 29^o 1676. & after perusall of the votes made their return that Edward Tyng Esq^r is chosen Treasuro^r of the County of Suffolke for the yeare ensuing.

COOKE to CHILDE

Robert Cooke of Boston Hornebreaker personally appeared before the Honord John Leverett Esq^r Gov^r & Edw^d Tyng Esq^r Assist. Aprill. 6^o 1676. & confessed judgem^t ag^t himselfe and Estate unto Alwin Childe of Boston Merchant for Fifteen pounds three Shillings in mony, being the full remainder of a bond on file bearing date July. 16^o 1674.

as Attests. Js^a Addington Cler

Execucion issued June. 8th 1676.

DEANE ag^t PEASE

John Pease personally appeared before the Worpp^u Simon Bradstreet Esq^r & Edw^d Tyng Esq^r Assist^s Aprill 19^o 1676. & confessed

judgem^t ag^t himselfe & Estate unto m^r Thomas Deane of Boston Merch^t for Four pounds Seventeen Shillings & three pence in mony, in full of a bill on file dat. 24^o January. 1675. wherein hee & John Parker stand jointly & severally bound to s^d Deane.

as Attests. Js^a Addington Cler

TAYLER to HUTCHINSON

John Tayler of Boston join^r personally appeared before the Worpp¹¹ Edward Tyng Esq^r & Tho: Clarke Esq^r assist. April: 24^o 1676. & confessed judgem^t ag^t himselfe & Estate unto Eliakim Hutchinson Merchant for ten pounds one Shilling & six pence in mony according to bill on file bearing date Septemb^r 29^o 1675. wth charges. £:10:01:6.

as Attests. Js^a Addington Cler

Execucion issued 12:7^{br} 1676.

KEMBLE to DEANE

Mary Kemble Adm^x to the Estate of her late husband Henry Kemble dec^d personally appeared before the Worpp¹¹ Edw^d Tyng & W^m Stoughton Esq^{rs} Aprill. 22^o 1676 & confessed judgem^t ag^t herselfe & Estate unto Thomas Deane assignee of Sampson Sheafe for Forty Four pounds one Shilling in mony, in full of a bond of One hundred [366] and Forty pounds on file bearing date Aprill: 12^o 1675

as Attests. Js^a Addington Cler

WAY to LIDGETT

L^t Rich^d Way personally appeared before the Worpp¹¹ Tho: Danforth & W^m Hathorn Esq^{rs} assist^s Aprill: 24^o 1676. & confessed judgem^t ag^t himselfe & Estate unto m^r Peter Lidgett for Sixteen pounds two Shillings & six pence in mony according to receipt on file date. 9^{br} 2^d 1675. wth the charges.

as Attests. Js^a Addington Cler

At a County Court held at Boston April: 25^o 1676 @

Magistrates present

JOHN LEVERETT Esq^r Gov^r

EDW^d TYNG

SIMON BRADSTREET Esq^r

W^m STOUGHTON

THO: CLARKE

} Esq^{rs}

Grandjury the same wth the former Court

Jury of Tryalls Sworn

Edw^d Sale

W^m Bartholmew

Ebenezer Clap

Jn^o Scarlett

Sam^o Mills

Tho: Holman

Js^a Goose

James Fales

Tho: Marsh

Tim^o Stevens

Sam^o Paul

Rich^d Stubbs

[FROST v. WAYTE]

John Frost plaint. ag^t Richard Wayte Marshall Defend^t in an action of the case for refusing or neglecting the duty of his office for that the s^d Marshall hath not extended an Execution deliurd unto him about three yeares since upon the Estate or person of John Eyre of havaril for eighteen pounds mony to bee deliurd to the s^d Frost, or at least not deliurd any thing to the plaint. by virtue thereof nor returned the s^d Execution to the Officer that granted the same according to Law & his promiss also to the last County Court in Boston; whereby the plaint. is damnified at least twenty pounds in mony wth other due damages according to attachm^t dat. april: 8th 1676. . . . The Jury . . . found for the plaint. ten pounds damage & costs of Court being & declare the former judgem^t to stand good for the plaint. to renew his Execucion.

Execucion issued April. 27^o 1676.

SWIFT etc. ag^t SMITH

Obadiah Swift Thomas Bird & John Clarke or either of them being Sons in Law to the late Major Humphry Atherton dec^d plaint^s ag^t Richard Smith of Wickford in the County of New-London Defend^t in an action of the case for his the s^d Smith's keeping possession of an Estate belonging to them & not paying their respective dues according to promiss & engagement to them once & again as will [367] further appeare by a bill, bond or writing under his hand dat^d

the .10. Augs^t. 74 & the order of the Honord Court of Assistants at Hartford: May. 26. 74. to the great damage of the plaint^s these with all due damages according to attachm^t dat. March the .13. 1675/6. . . . The Jury . . . founde for the plaint^s Eighty pounds Fifteen Shillings four pence halfe penny in mony; which is twenty Six pounds eighteen Shillings five pence halfe penny per share & costs of Court. m^r Rich^d Wharton being Surety for the Defend^t & appearing to defend the case appealed from this judgem^t to the next Court of Assistants & himselfe principall in £.160. & Jn^o Wilkins & Nathanael Williams Sureties in Eighty pounds apeice acknowledged themselues respectiue bound to . . . prosecute his appeale . . .

[Although the appeal was withdrawn (Records of Court of Assistants, i. 69), the following Reasons (S. F. 1467) explain the nature of this interesting case on the conflict of the laws of two jurisdictions:

Richard Wharton Surety for M^r Richard Smith his Reasons of Appeale from y^e Iudgem^t of y^e County Court In Aprill last In an action Commenced by Obadiah Swift Thomas Byrd & John Clarke

1^t Because y^e then p^l^{ts} Sue as sons in law To Maj^r Humphrey Atherton & by vertue of y^t Relacion pretend a right To an Estate in y^e possession of y^e s^d Smith But doe not declare whether they married Maj^r Athertons daughter or Maj^r Atherton married their mother To make them Sons In law But supposing y^e first w^{ch} is y^e most probable To give them interest yet y^t was not proved To y^e Iury or if i[t] had yet as Sons in law they cannot Sue except in right of their wives whom they must prove Either heyres Ex^{ts} Adm^{ts} or assigns To Maj^r Atherton if they will recover any Estate belonging To him but noe such plea or prooffe was presented att y^t Court

2^d They insist vpon a promise & ingagem^t & Referr To a Bill Bond or Writeing vnder hand dated y^e 10th Aug^t 1674 w^{ch} writeing only Seems To suppose y^t y^e now Defend^{ts} might or ought to have some right share or interest in some Money agreed on for y^e purchase of Two Tracts of Land in y^e Narragansett Countrey w^{ch} parts or Shares M^r Smith oblidges to pay according to y^e Decision of y^e Collony of Conecticott But it did not appeare to y^e Court y^t any lands y^t belonged To Maj^r Atherton were Sold But it being granted there we[re] It appeared not what Tracts nor for w^t Summe of Money nor w^t y^e Defend^{ts} parts or share[s] were therein And (as none is) Soe if all this had been proved y^e Decision of y^e Collony of Conecticott is referd To in y^e obligacion according to w^{ch} M^r Smith promises payment Now M^r Smith being an inhabitant of y^t Collony y^e Estate in Controversy being in y^t Collony & his obligacion being To make paym^t according To y^e Decission of y^t Collony It is humbly Supposed y^t y^e now Defend^{ts} ought not to have brought any action ag^t M^r Smith in this Collony his person or Estate being alwayes in y^t Collony To respond greater Demands but if it be pretended y^e order from Conecticott refers To y^e distribucion of y^e Court of y^e Massachusetts It is answered y^e order is directed To those in whose hands y^e Estate shall bee found w^{ch} y^e Defend^{ts} say is M^r Smith Therefore by vertue of y^t order

they should have made their Demand & if hee had been dissob^t they might Iustly have Complained of his Contempt & have had Execucion for w^t they could make out to bee their right But Supposeing y^t M^r Smith should bee lyable To bee Sued heer yet y^t order referring To y^e distribucion of this Collony & nothing like a distribucion of this Collony appeareing To y^e Court onely a paper y^t mencons 13 Shares but to whom these Shares are To bee divided is not mencioned nor is their any act of y^e Authority of this Collony passed vpon s^d paper & Supposeing To y^e Children yet these persons being neither Children nor proveing themselves marryed to y^e Children Can have noe legall pretence To any share or Interest to anything Mentioned in said Paper

Lastly Because y^e now defend^{ts} not looking Vpon y^e order of Conecticott as a Decission They by an order of theire owne Dated about ten weeks after y^t of Conectic[ott] order & Depute M^r Smith to detain^e & keep in his hands there parts & shares till it is ordered by y^e Court of Conecticott Since w^{ch} order & deputacion from y^e Defend^{ts} To M^r Smith noe order from Conecticott hath been Tenderd to him But on y^e contrary certificate from y^e Governor & two assistants of y^t Collo[ny] y^t they apprehend it Reasonable y^t M^r Smith Detaine w^t money hee had in his han[ds] Till Maj^r Athertons Children should agree or y^e Court of Conecticott should order how y^e money should bee distributed & y^t a settlem^t thereof would bee made vpo[n] y^e Childrens applicacion To y^e s^d Court By all w^{ch} it is humbly hoped y^t to this hon^d Court & Iury will appeare a multiplicacion of Errors att y^e County Court the least of w^{ch} may bee Sufficient to reverse y^e former Iudgement.

Rich^d [torn]

These Reasons were received August. 30^o 1676

per Js^a Addington Cler]

BYFEILD ag^t WRIGHT

Nathanael Byfeild plaint. ag^t William Wright junio^r Defend^t in an action of the case for not performeing his the s^d Wrights part of a bargain made wth the s^d Byfeild for the Sale & deliuv^y of two thirds of the Catch called the Tryall to his great damage & all other due damages according to attachm^t Dat. February. 3^d 1675. . . . The Jury . . . founde for the Defend^t costs of Court being Four Shillings & Four pence.

WILKINS ag^t BALLATT

John Wilkins plaint. ag^t Samuel Ballatt Defend^t in an action of the case for not building & delivering to the s^d Wilkins a Sloope according to Covenant, whereby the saide Wilkins is damnified to the value of twenty pounds or thereabout according to attachm^t Dat. February. 14^o 1675. . . . The Jury . . . founde for the Defend^t costs of Court.

COWELL ag^t PEARS

Joseph Cowell or his lawfull Attourney plaint. ag^t Samuel Pears Settworke Cooper Defend^t in an action of a debt of Seventy pounds lawfull mony of New-England due by bond bearing date the. 26th day of Novemb^r 1674. as under the aboues^d Samuel Pears his hand & Seale may appeare, wth all due damages according to attachm^t dat^d april: 15th 1676. . . . [368] The Jury . . . founde for the plaint. the Forfiture of the bond Seventy pounds in mony & costs of Court. The Defendant moved for a Chancery, upon w^{ch} the bench chancered the bond to the condition of the obligation being thirty Five pounds in mony & costs of Court twenty Five Shillings four pence

Execucion issued April: 28^o 1676.

PHILLIPS ag^t SMITH

Eleazer Phillips plaint. ag^t John Smith of Lyn Defend^t in an action of debt of Six pounds in mony or thereabout due unto him the s^d Phillips for Four pounds in mony, a musket, Sword & belt, powder bagg, powder & bullets, which hee received from him the s^d Phillips about the month of October last, upon condition that hee would Serve him in the Service of the Country as a Soldier at Black-point; after the receipt of which hee never went forth, but absented himselfe from the s^d Service whereby the s^d Phillips is greatly damni-fied for want of his mony armes & ammunition & is also liable to bee impressed again wth other due damages according to attachm^t Dat^d February. 8th 1675. . . . The Jury . . . founde for the plaint. Four pounds in mony & his armes or Six pounds in mony & costs of Court being twenty Six Shillings.

Execucion issued may: 16. 1676.

GIBBS ag^t SHORE

Benjamin Gibbs plaint. ag^t Samson Shore senio^r Defend^t in an action of debt for withholding Seventy pounds ten Shillings & ten pence due by bond bearing date the .21^o of May. 1675. wth other due damages according to attachm^t dat^d April: 18^o 1676. . . . The Jury . . . founde for the plaint. the Forfiture of the bond being Seventy pounds ten Shillings & ten pence in mony & costs of Court. The

Defend^t appeal^d from this judgem^t unto the next Court of Assistants & himselfe principall in £:140. Elisha Odlin & Samuel Hudson as Sureties in £:70. apeice bound themselues respectiuely in the Summes afores^d unto the Treasuro^r . . . on condicion the s^d Shore shall prosecute his appeale . . .

[Copy of attachment and return is in S. F. 1437. For the appeal, see Records of Court of Assistants, i. 68.]

HAWKINS ag^t SHEAFE

Thomas Hawkins plaint. ag^t Sampson Sheafe Defend^t in an action of the case for better Security for performance of a promiss & engagement made by the s^d Sheafe to the s^d Hawkins before sufficient witness both before & after the s^d Hawkins Signed & Sealed a deed of Mortgage unto the saide Sheafe of his houseing & lands, the w^{ch} s^d promiss was [369] that the s^d Sheafe would take his just due & no more out of the pu^rmisses & return the rest to the s^d Tho: Hawkins with other due damages according to attachm^t Dat^d April. 7th 1676. . . . The Jury . . . founde for the Defend^t costs of Court being three Shillings & ten pence.

[The beginning of this case may be found on p. 1, and the most recent developments on p. 564, above. See also below, p. 705.]

ADAMS ag^t BENNET

Samuel Adams plaint. ag^t John Bennet Defend^t in an action of the case for the Summe of One hundred pounds mony being the Forfiture of a bond for not paying the Summe of thirty Four pounds ten Shillings according to the award & determination of three men mutually chosen between them wth all other just damages according to attachm^t dat^d 29^o 1st m^o 76. . . . The Jury . . . founde for the plaint. the Forfiture of the bond One hundred pounds mony & costs of Court The Defendant appeal^d from this judgem^t unto the next Court of Assistants & himselfe principall in £:200. & W^m Bartholmew & Experience Willis Sureties in £:100. apeice bound themselves respectiuely in the Summes aforesaide . . . on condition the s^d John Bennet should prosecute his appeale . . .

[Various papers of no great importance are in S. F. 1438; see Records of Court of Assistants, i. 69.]

W^{ms} ag^t FOGG etc.

John Williams plaint. ag^t Ezekiel Fogg & Comp^a Defend^{ts} in an action of reveiw of a judgem^t granted the s^d Fogg & comp^a to the value of nine pounds Seventeen Shillings & five pence in mony for ballance of Acco^t it being aboue ten pounds to the damage of the plaint. besides other damages; which judgment was granted the s^d Fogg & comp^a at a County Court held at Boston the. 25th day of January. 1675. & all other due damages according to attachm^t dat^d March. 8th 1675/6. . . . The Jury . . . founde for the plaint. nine pounds Seventeen Shillings five pence in mony & costs of Court. The Defendant appealed from this judgem^t unto the next Court of Assistants & himselfe principall in £.20: & Phillip Read & Tho: Cox Sureties in £.10. apeice bound themselues respectiuly in the Summes afores^d . . . on condicion the s^d Ezekll Fogg should prosecute his appeale . . . [370]

[A review of a case at the January session (above, pp. 656–61). Fogg appealed as follows (S. F. 1472.4):

Phillip Read and Thomas Cox as suretyes For Ezekiell Fogg theyr Resons of Appeale on the behalfe of the said Fogg & Company from the Judgment of the Honno^d County Court held in Boston the 25th of Aprill Last past in which was Judgment granted to John Williams plajn^t Agaynst Ezekiell fogg & Company Defendants

Imp^tmis Wheras the said Ezekiell Fogg & Company had a Judgment granted for Nine pownds seuentene shillings & fiue penc by the honno^d County Court held in Boston the 25th of January Last past agaynst the said williams for a Debt Due by book and possitiuely proued as may appear by the Records of the said Court and therefore the Apelant takes it as a great Agriurement to be Cast by the witnis of John Geffard & m^r Hudson Leueret at the next Court held in Aprill

2^{dly} Wheras the two testimony of John Geffards & M^r Hudson Leueret are not any ways Circumstanc^l: as to ou^r former accion or to Reuoke the former Judgment for John Geffords testimony stands on ou^r behalfe in that he saith he herd Fogg say he had sould a parcell of goods to Frissill & williams which Justifyes and Confirms ou^r former Judgment in Jann Cour^t

Thirdly Wheras John Gefford and M^r Leueret testyfyes of a bill giuen by the said John williams vnto the said fogg yet in theyr testymonyes they Doe not agre Neyther Doe they Sweare that y^t bill was giuen for the ballancing of that accompt sued for by the said fog Nor yet was the bill giuen for the Ballancin of all accompts as may appear by theyr Testymonyes and therefore we humbly Conceiue y^t the Judgmen[t] that Ezekiell Fogg Recouered in Jann: Court Agaynst williams Remayns Just and Right still

4^{thly} Wheras the two witnisses pretend they herd fogg say he had a bill: which is Nothing but a heresay & not possitiuely therfore not witnis suffissiently to Diuert the former accion besides the testimony of John Geffard Doth more

Confirme the Justness of ou^r former action for wheras he sayes there was a bill but it would not answer fogs ends which argues the bill was not suffissient if any such bill weare

5^{thly} Wheras the said Geffards testimoni Doth appeare out of mear selfe ends & mallis because the said fogg had Recceued the said mony of Williams and he Could not get a part of it in pretenc y^t he had a Rite vnto it or els why should he offer to Discharg Williams for fower pownds

6^{thly} If any such bill had bin or Could be Legally proued the said williams had his way by Law to Recouer the same if on the payment of his Due Debt Recouered he Receued not a Discharg for the same wherfore by all these Resons we Humbly Conseue ou^r former action gayned in January Court stands good

Phillip Read

Thomas Cox

These Reasons were received August: 30th 1676.

per Is^a Addington Cler

To this Williams replied as follows (S. F. 1272.2):

Nath^{ll} Williams Attorney to John Williams his Ansuer to the Reasons of Appeale given in to this H^{ond} Court of Assistants, in the behalfe of & Suretyes for Ezekieil Fogg, by Philip Reed & Tho Cox &c

Inprimis. To the first Reason I answer, y^t the Testimonyes of M^r Hudson Leverett, & M^r Jn^o Giffard being duely Considered, the now Defend^t would have had greater Cause of aggreivent, if their Evidences soe positively proving a Bill, given by y^e Defend^t & Tho: Frizzell unto Fogg the now Plantiffe, & y^t Bill to be the ballance of Acc^{ots} betweene them; should not reverse the Judg^t of the Hon^d County Court held in January Last past. then the Plantiffe hath of being aggreived for being Cast by the positive testimony of two substantiall Wittnesses whereas the Judg^t of the Court in January (as I humbly Conceive) was only grounded on Fogs Single Evidence to his owne Acc^{ot} not agreeing wth his Acco^t given in & Sworne to before the worshipfull Simon Bradstreet Esq^r both by s^d Fogg & William Grice. as per ye s^d Acc^{ot} in Last article of the Same but one may appeare, For there it is said the Glasses were dd to Frizzell, & at that time the now Def^{dt} was at N. Yorke w^{ch} was also after the Ballance was made up, & a Bill given for the Same. & In January Court the Def^{dt} was Visited wth a fitt of Sicknesse, & Soe was inforced to reveiw his action to the next County Court in Aprill, not being able in January Court to be personally present to defend his Case —

2ly To the 2^d R: I answer that the Evidences of m^r Leverett & m^r Giffard are Every way Circumstancet to the former action for the revocation of the Judg^t of January Court For though Giffard Swares y^t Fogg sould a parsell of goods yet take all his Evidence, that the Bill given to Fogg was for the Ballance of Acc^{ots} it planely appearing y^t W^{ms} & [Frizzell] had given their Bill in Ballance they Could not be Sued upon Acc^{ot} w^{ch} Justifyes & Confirms the Judg^t of January Court.

3ly As to y^e 3^d Reason I referr it to the Consideration of this Hon^d Court & Jury how farr the testimonies of M^r Leve^t & M^r Giffard doe agree: Giffard Swares y^t it was for the ballance of Acc^{ots} betweene them now; there was never any Acc^{ot} pretended to or Sued for by s^d Fogg; but that Acc^{ot} for the summ & Substance of it, w^{ch} was Sued upon in January Court & sworne to by s^d Fogg & Grice, as is alledged

in my ansuer to his first reason; If there Ever was any other Acc^{ot} be^t the Plantiffe & Def^t. Let the plantiffe produ^e the Same, else of necessity it must be for ballance of y^t Account

4ly I ansuer to y^e 4th Reason y^t Whereas they Say that y^e witt[nesses] pretend they heard Fogg say &c: is as much as if they should have said that the witnesses swore to pretensions: w^{ch} [is] an Odium Cast upon the witnesses; whereas on the Contrary one of them positively Swares, that he had heard Fogg often say that he had taken a Bill under W^{ms} his hand for ballance of acco^{ts} between him & Frizzuell: & the other swares y^t Fogg shewed him the Bill: as per their Evidences may more fully appear. The Plantiffe (I conceive) will hardly finde any Evidence that will prove y^e Justnesse of soe fraudulent an action as that was in January Court. had Fogg produ^{ed} the Bill or Sued by y^e Bill he could have recovered of Williams but his proportion of the ballance they being not bound Jointly & Severally; & that was the Reason why Fogg tould Jeffords it would not ansuer his End to Sue by Bill but upon Acc^{ot}.

5. The Fifth Reason is only a Charging of m^r Geffard wth swaring for Selfe Ends & mallice, w^{ch} Concernes s^d Giffard more then the Defd^t or the Case

6ly To the sixth I answer that such a Bill hath bin Legally proved to be in the hands of Fogg & detained by him, & would have bin sued upon had it bin sufficient to have reacht his Ends. therefore that being proved, Fogg had no cause of action to sue the Defd^t upon Acc^{ot}. a discharge from the Bill would not be any advantage to the Defd^t because another is Concerned Conjunctly wth himselfe. Wherefore the Defd^t humbly Conceives & hopes that it will plainly appeare to this Hon^d Court & Jury, that the Reversion of the Judg[^t] of the Hon^d County Court held in January, graunted to y^e Defd^t att the next County Court in April is good & Legall, & y^t this Hon^d Court & Jury will give ther Confermation of the same

Your Hono^rs humble Serv^t

Nath^l Williams

The Court of Assistants (Records, i. 68) confirmed the former judgment. See also Fogg v. Leverett, p. 689, below.]

WAY ag^t WILLIAMS

Liv^t Rich^d Way Attourny unto m^{rs} Elizabeth Freake Adm^x unto the Estate of m^r John Freake plaint. ag^t John Williams of Boston Boateman Defend^t in an action of the case for the earnings of a Boate w^{ch} the s^d W^{ms} hath imploied about Four yeares, the one halfe thereof belongs to the s^d Freake & what shall appeare to bee justly due upon the s^d Account which conceive may bee about thirty pounds in mony & all other due damages according to attachm^t dat^d April: 17^o 1676. . . . The Jury . . . founde for the plaint. that the s^d W^{ms} shall give in a just & true Acco^t of the earnings of the boate for so long time as hee hath imploied her within thirty dayes or pay to the plaint. twenty Four pounds in mony & costs of Court being thirty one Shilling & eight pence & so to have the boate.

WAY ag^t WILLIAMS

Liv^t Rich^d Way Attourney unto m^{rs} Elizabeth Freake Adm^x unto the Estate of m^r John Freake dec^d plaint. ag^t John Williams of Boston Boateman Defend^t in an action of debt for withholding nineteen pounds eleven Shillings & ten pence as appeares by Note under his hand & Booke wth forbearance & other due damages according to attachm^t dat^d April: 17^o 1676. . . . The Jury . . . founde for the plaint. due by note according to attachm^t Nineteen pounds eleven Shillings ten pence & costs of Court being twenty three Shillings & eight pence.

TRUMBEL ag^t LYNDE

John Trumbel Junio^r plaint. ag^t Simon Lynde of Boston Merch^t Defend^t according to attachm^t dat^d February 19^o 1675. The plaint. withdrew his action.

HOLMES etc. ag^t BUTLER

Samuel Holmes & Jsaac White or either of them plaint^s ag^t Steven Butler Defend^t in an action of the case for withholding of a debt of Fiveteen pounds ten Shillings due for worke done according to Covenant between them with interest & all other due damages according to attachm^t dat. 18. 2. 1676. . . . The Jury . . . founde for the plaint^s Fiveteen pounds ten Shillings mony according to bargain & costs of Court being thirty four Shillings & eight pence.

Execucion issued April: 28^o 1676. [371]

TAY ag^t HAWKINS

John Tay plaint. ag^t William Hawkins Defend^t in an action of defamation for that Hanna Hawkins wife of the s^d William Hawkins hath defamed Elizabeth wife of the s^d John Tay in her name by reporting that the s^d Elizabeth Tay did steale a card of bonelace at a warehouse or words to that effect whereby they are greatly damnified & other due damages according to attachm^t dat^d March: 21^o 1675. . . . The Jury . . . found for the Defend^t costs of Court.

CLEARE ag^t PAINE

John Cleare junio^r plaint. ag^t Moses Paine Senio^r Defend^t in an action of the case for withholding of a legacie given to Elizabeth the

now wife of the s^d Cleare per her GrandFather the late Rev^d m^r W^m Coleborn dec^d greatly to the damage of the s^d Cleare with all other due damages according to attachm^t Dat^d 19^o 2^{mo} 1676. . . . The Jury . . . founde for the Defend^t costs of Court.

HALGESON ag^t PAINE

Jngeman Halgeson plaint. ag^t Moses Paine Senio^r Defend^t according to attachm^t dat. 19^o 2^{mo} 1676. The plaint. withdrew his accion.

FOGG ag^t LEVERETT

Ezekiel Fogg plaint. ag^t Hudson Leverett Defend^t in an action of defamation for slandering & defaming the name of the s^d Fogg, by wrongfully & unjustly chargeing him the saide Fogg to bee a traytor to the Country & that hee would clap the s^d Fogg a close prison^r with many other threatning words & Language to the great defamation of the s^d Fogg as will appeare by sufficient evidence & is in the valuation of credit & Forreign repute to the plaint^s damage Five hundred pounds as aboues^d wth all other due damages according to attachm^t dat. April: 7^o 1676. . . . The Jury . . . founde for the Defend^t costs of Court being twelve Shillings & two pence.

Execucion issued May: 17^o 1676.

ROGERS ag^t ROWSTE

Rich^d Rogers plaint. ag^t William Rowste goldSmith Defend^t in an action of debt of Four pounds in mony due to the s^d Rogers for two ounces & three quarters of bad gold sold & deliur^d by the afores^d Rogers unto the aboues^d Rowste in & upon the .14th day of this instant month of April; w^{ch} is to [372] the plaint^s damage Four pounds in mony wth all other due damages according to attachm^t dat^d April. 15th 1676. . . . The Jury . . . founde for the plaint. Fifty Shillings in mony according to Agreement & costs of Court being Eighteen Shillings ten pence.

Execucion issued April. 28^o 1676.

CLARKE ag^t HANDS

Thomas Clarke Esq^r plaint. ag^t the goods of John Hands Exec^r unto Marke Hands, now in the hands of m^r Thomas Brattle & Peter Bracket guardians unto the s^d Jn^o Hands Defend^t according to attachm^t dat^d 17^o 2^d 1676. The plaint. withdrew his accion.

FRANKES ag^t SMITH

John Frankes plaint. ag^t Rich^d Smith Defend^t in an accion of the case for his fraudulently dealing in the Sale of Margaret Cox to s^d Frankes in May last for to bee saide Franks his Serv^t when s^d Smith or his wife were very suspitious that Shee the s^d Margaret Cox was wth childe by reason of having s^d Margarets breast searched in the time of her Service wth s^d Smith & therefore s^d Smith could not thinke her fit for such imploiment as s^d Smith did sell her for so that the plaint. is damnified to the value of Fifteen pounds in mony or thereabouts besides the disgrace suffered in his house & Family & all other due damages according to attachm^t dat^d April: 18th 1676. . . . The Jury . . . found for the Defend^t costs of Court, being Fourteen Shillings & Four pence.

WARREN ag^t SKINNER

Humphry Warren plaint. ag^t Edw^d Skinner Defend^t The plaint. withdrew his accion.

SMITH ag^t MEARES

John Smith Merchant plaint. ag^t James Meares Defend^t in an action of the case for withholding a debt of twenty Four pounds in mony due by bill bearing date the .29th of 8^{br} 75. with all other due damages according to attachm^t Dat. Feb^{ro} 19^o 1675. . . . The Jury . . . founde for the plaint. according to bill twenty Four pounds mony & costs of Court being twenty nine Shillings Six pence. [373]

HAYDEN ag^t Select men of Milton

Ebenezer Hayden Living in Boston plaint. upon replevin ag^t the Select men of Milton Defend^{ts}. . . . The Jury . . . founde for the Defend^{ts} costs of Court, being nine Shillings & ten pence.

DISPAWS ag^t GIFFARD

Henry Dispaw Senio^r & Henry Dispaw junio^r or either of them plaint^s ag^t John Giffard Defend^t in an action of reveiw of a judgement granted against them or either of them at a County Court held at Boston (by adjournm^t of the Generall Court) Novemb^r 23^o 1675.

. . . The Jury . . . founde for the Defend^t costs of Court being twenty Four Shillings & ten pence.

Execucion issued May. 1676.

[A copy is in S. F. 1576.]

PROCTER ag^t GLOVER

Samuel Procter plaint. ag^t John Glover Defend^t The plaint. withdrew his accion.

BRIGGS ag^t GIFFARD

Abraham Briggs plaint. ag^t John Giffard Defend^t in an action of debt of twenty one pounds or thereabouts due by Booke as may more fully appeare with all other due damages according to attachm^t dat. February. 22^o 1675. . . . The Jury . . . founde for the plaint. Nineteen pounds & seven pence the ballance of the Acc^o & costs of Court being twenty Six Shillings & two pence. The Defend^t appealed from this judgement unto the next Court of Assistants & himselfe principall in £40. & Hudson Leverett & Nathan¹¹ Williams Sureties in £.20. [a]lpeice acknowledged themselves respectiue bound . . . on condition the sd. John Giffard should prosecute his appeale . . .

[Two bills of cost are in S. F. 1482.2, 3; the confirmation by the Court of Assistants is in its printed Records, i. 65-6. Gifford's Reasons of Appeal (S. F. 1482.4) follow:

John Giffard his Grounds And Reasons of Appeale from the Countye Court of Boston in aprill last in that Action of m^r Abraham Brig[gs] pl^t and John Giffard Def^t to this honored Court of Assistance setting in Boston:

That whereas M^r Abraham Briggs Commenst his action in Law against the then def^t Giffard for twentye pou[nds] that he should haue delivered the Sayd Giffard. The Now pl^t Giffard apprehending that the iurye did not Soe fully vnderstand his plees then made gaue occasion for his appeale to this honored Court. viz

Imp^{rs} The law provideing that any debt due by bill assigned. shalbe as good a debt and Estate to the assigne as it was to the assigner. and lawful to be sued for and recovered as fully as the orriginall Creditor might haue done.

By which law the sayd Giffard apprehends himselfe cleared fr [torn] manded by [torn] Briggs. Because that the sayd Briggs desired, that for his pay the Sayd Giffard would assigne ouer vnto him a bill of sixteene pound reddey Cash and another bill of fortye foure pounds odd money. which the Sayd Giffard did the Sayd Briggs to returne the ouer plus, all which lyes at this instant of time in the hands of the Sayd Briggs and the sayd Giffard dissposest there of, wherefore Giffard apprehends himselfe vniustly molested by the sd Briggs when he hath abundantly more made ouer to him for his pay then his debt comes vnto.

Secondly. That m^r Abraham Briggs haueing sued by vertue of my assignement that bill of Sixteene pounds. And in law hath recovered Twelue pounds odd moneyes. As by the iuries verdit appeares. yet he in his account brought into Court omitts the giueing of Giffard his due Credit for it And may be Supposed to be an ouer sight of the iurye, in that they did not deduct it out of Briggs his account to lessen Giffards charge.

Thirdly. That for the bill assigned him of fortye foure pounds odd money. M^r Briggs had the prissnor vnder exsecution delivered him, as well as the bill assigned him whereby he might haue receaued full satisfaction (if he did not yet satisfaction was tendred him by the prissno^r as was testified by Thomas Matson prisson keeper in Court

fourthly. That at time the Debtor was vnder exsecution and m^r Briggs did take the sayd prissnor to be his proper estate of goods or Moneys and that to make satisfaction to him for the aforesayd Sum of fortye foure pounds odd moneyes. And that Giffard had noe more any thing to doe with him or the debt. And there vpon Chargd the Sayd prisson keeper with him and had bond from the Sayd^d Matson to the vallue of one hundred pounds for his true keeping of him, which bond the Sayd m^r Abraham Briggs sued the Sayd^d Matson for. at the last County Court in Boston.

By all which aforesayd, the p^[l^t] Giffard hopes that it will evidently appeare to this honored Court that as [from] Giffard [*torn*] Briggs is payd and ouer payd and that the account being [*torn*] [there is Money] Comeing to the Sayd^d Giffard from the Sayd^d Briggs.

John Giffard

August: 29th. 76

These Reasons were received August. 31th 1676.

per Js^a Addington Cler]

SMITH ag^t BROOMHALL

Edward Smith for himselfe & his wife plaint. ag^t Ann Broomhall widdow Defend^t in an action of Slander to the value of One hundred pounds & all due damages according to attachm^t Dat. April: 3^d 1676. . . . [374] The Jury . . . founde for the Defend^t costs of Court being Five Shillings.

STOUGHTON ag^t WELLS

William Stoughton Esq^r plaint. ag^t Thomas Wells Carpenter Defend^t for his not paying a yeare & halfes rent ending about the 23^d of January last due for a tenement in Boston hired of s^d Stoughton at the rate of Five pounds per annum in mony with all due damages according to attachm^t dat. Feb^r 12^o 1675. The Defend^t & his Surety James Pecker being both called made default in appearance; whereupon the Court declared their bond forfeit^d. . . . The Jury . . .

founde for the plaint. Seven pounds ten Shillings mony according to engagement & costs of Court being twenty two Shillings & eight pence.

Execucion issued Octobr 9th 1676.

TYNG ag^t COOKE

Edward Tyng Esq^r Treasuro^r of the County of Suffolke plaint. ag^t Francis Cooke Defend^t by continuance from the Last County Court in Boston in an action of the case for the Forfiture of a bond of ten pounds in mony as hee was Surety for the appearance of Charles Blinco at the last County Court in Boston with all due damages according to attachm^t Dat. pr^o x^{br} 1675. . . . The Jury . . . founde for the plaint. the Forfiture of the bond ten pounds in mony & costs of Court.

MIDDLECOTT and ENGLISH Fined 20^s

M^r Richard Middlecott & James English were Fined ten Shillings apiece in mony to the County for not attending to Serve on the Jury of tryalls according to Summons.

DUGLEN his guardian

James Duglen appeared in Court & made choise of his Father Allister Duglen to bee his guardian for a Legacy given him by his Uncle allin Duglen which hee accepted & the Court approved of hee giving Security according to Law.

ADAMS his Estate Setled

For the Setlement of the Estate of the Late Liv^t Henry Adams of Meadfeilde dec^d hee Leaving behinde him seven Children, the eldest Sonn named Eleazer appearing at the time hereof & renounceing any claime [375] to the Estate as having received his portion already, the debts due from the Estate being first paide The Court Orders the remainder to bee equally divided amongst the other Six Children; onely Elizabeth Harding one of his daughters to discount out of her part thereof what Shee hath already received from her Father.

vide. Childrens agreem^t of the division Record^d in the 12th Booke of Records of Deeds p. 334.

ADAMS'S Guardianⁿ

Samuel Adams Sonn of the late L^t Henry Adams of Meadfeilde dec^d appeared in Court & made choise of m^r Moses Paine of Boston to bee his Guardian which hee accepted & the Court approved of hee giving in bond according to Law.

ADAMS'S guardian

Henry Adams Sonn of the Late L^t Henry Adams appeared in Court & made choise of m^r Moses Paine of Boston to bee his Guardian which hee accepted & the Court approved of hee giving in bond according to Law.

Freemen Sworn

John Dyer of Weym^o Benjⁿ Dyer, Jonathan Jackson John Atwood & John Tucker all of Boston tooke the Oath of Freedom of this Colony.

LAKES discharge from traynings

Thomas Lake of Dorchester by reason of his age & Lowness in his Estate is freely discharged from attending upon ordinary traynings.

Weym^o Commission^{rs}

Cap^{tn} William Torrey, Deacon Thomas Dyer & L^t John Holbrooke are appointed Commission^{rs} to end small causes in the Town of Waymoth for the yeare ensuing.

The Grandjury brought in theire bill of presentments April: 25^o 1676. & were dischargd.

Order to ARTHUR MASON to pay £50. to the Deacons of the.
1^o church in Boston for EPHRAIM POPES wife.

Whereas Ephraim Pope of Boston hath for this many yeares omitted his duty in taking care of & making due provision for his wife; so that Shee had necessarily been exposed unto great wants if not to perishing, had not Shee been provided for by the Deacons of the first church in Boston (whereof Shee is a member) the s^d church having disbursed a considerable Summe of mony for her maintenanc[e]; and the s^d Ephraim Pope having now made Sale of his

Estate in house & Land unto m^r Arthur Mason. The Court Orders the s^d Arthur Mason to pay Fifty pounds in mony in part of his s^d purchase unto the Deacons of the first church in Boston to bee by them improved for the maintenance of the s^d Popes wife, they to bee accountable for the same to the County Court when they shall call to them for the disposall thereof; and that James Everill & [376] Joseph Belknap who as Agents for the s^d Pope made Sale of the Land & manage his buisness do deliver up m^r Mason one of his bonds for the like value, or give him a sufficient discharge upon his paying the same.

NEWCOMB Sentenc^d

Andrew Newcomb being bound over to this Court & called for to answer for his wilfull or careless running upon a small boate (with his Shallop) wherein were severall worthy Gentlemen, & sincking the s^d Boate, thereby hazarding the Lives of the s^d persons & exposing them to Losses, this done in the harbour of Boston on the 7th of this instant April The Court having heard & considered what was alleaged & proved against him do Sentence the s^d Newcomb to pay Five pounds in mony as a fine to the County & ten pounds in mony to the persons that sustained Losses by his over running the boate & Fees of Court, standing committed untill this Sentence bee performed the s^d Andrew Newcomb appealed from the Sentence of this Court unto the next Court of Assistants & himselfe principall in Forty pounds mony & Francis Johnson & Tho: Dewer as Sureties in £.20. apeice mony bound themselves to . . . prosecute his appeale . . .

[On April 2, 1676, Daniel Gookin, the superintendent of praying Indians, and two magistrates were sent by the government to Long Island in Boston Harbor on a mission connected with the Indian converts interned there during King Philip's War. Popular opinion then ran high against Gookin for befriending and protecting these wretched creatures. They took the "Apostle" Eliot in the boat with them. As he tells the story in the records of his church,

In o^r way thithe^r, a great boat of about 14 ton, meeting us, turned head upon us, (wheth^r willfully or by negligenc, God he knoweth) y^{ei} run the sterne of o^r boate w^r we 4 sat, under-water, o^r boats saile, or something tangled wth the great boat, & by Gods mercy kept to it, my Cosin Jakob & cosin Perrie being forwarder in o^r boat quickly got up into the great boat, I so sunke y^t I drank in salt water

twice, & could not help it. God assisted my two cosins to deliver us all, & help us up into the great boat we were not far fro' the Castle, where we went ashore, dried, & refreshed, & yⁿ went to the Iland performed o^r work, returned well home at night praised be the Lord. some thanked God, & some wished we had bene drowned. Soome after, one y^t wished we had bene drowned, was himselfe drowned about the same place w^r we w^r so wonderfully delivered. . . . (New England Historical & Genealogical Register, xxxiii. 297-8).

S. F. 1468

Andrew Neucombe his Reasons of Apeale from the Sentanc[e] of the Countie Court held in Boston Aprill the 25th 1676

Jmp^{rs} Because the matter of fact of w^{ch} J am accused is not proued againste me the fact J am accused of is for willfully or Careles[y] Runinge vpon a small boat wth my shallop &c; Jn Captains Gookins Testimony the words are wheather Carelesly or purposlie questioninge wheather it was; eather as well he might if it had bine aded or Accedentially it Could not haue bine denied but J doe Sollomly denie that J eather Carelesly or purposlie Runn vpon their boat & his nor the other Testimonies doth not affirme that J did, J did vse the beste meanes J could to shune their boat & when they Called to me J Indeuered to bare vpp but the tide tooke my boat vnder the quarter & hindred her from wareinge they say their small boat would not bare vpp, shee would not feele her helme. truly noe more would mine soe that it was a meer Accedentall & Causuall thinge w^{ch} if both parties had knowne eather others minds might by orderinge their Corses haue prevented, but as it was it was like two persons walkinge or meetinge one an other in a broad street & by indeueringe to shune one another runn againste each other as is very vsuall

2^{ly} Again J humbly Conseaue that J am not Legallie Convicted of the breach of any law, (J craue the benefitt of the first law) and Consequently not Culpable of such fines as J am sentanced vnto and heer J would not be vnderstood to reflect vpon the honored Countie Court that sentanced me as if the sentence was vniust but this J must affirme that their was a misse representation of the Casse vnto them as if J ware eather Carelesse of mens Liues in generall or had some pretended mallis againste those Gentellmen in particuler w^{ch} J thanke god J cann safely affirme J not giltie of eather for the firste J cann say J tender the life of all men & would at all times doe what lieth in my power for the preservation theirof, & as concerninge those Gentlemen that was in the boat J doe Affirme that J knew them not till they ware one board me, 2^{ly} that J had nor haue not any euell will againste any one of them but did & doe loue & honour them accordinge as in dutie J am bound both respectinge their persons And places

3^{ly} had J Carlesly donn this thinge or willfully J did not nor is proued againste me, yet J haue Juste Cause to appeale because J apprehend the the damidge they sustained is ouer valued The testimonies of the Gentlemen Relating to the prises of their things loste are noe Legall euedence in my Apprehention They sware in their owne Casse

They are aprisers of their one goods

By what is said J hope my Casse will be Rightly vnderstood by this Honored Court & Juery

That J neather willfully nor Carlesly runn a board them but a meer Accident

2^{ly} That J haue broke noe Law

3^{ly} That If J had broke any law yet the punishm^{to} is greater then the fact the goods ouer vallewed & Jlegaley vallewed by the owners

J Refere my Casse to the Honored Court and Jury in hops of a good Jshew and Rest

The Honoured Courts & Jurys humble Sarvant

Andrew Newcombe

These Reasons were received August: 31^o: 1676.

as attests Js^a Addington Cler

The Court of Assistants (i. 64) confirmed the former judgment with costs. At the April session, 1677, Newcomb sued James Wardell, his mate in the boat, for one third of the fine; see below, p. 800.]

JAY Sentenc^d

Thomas Jay being presented to this Court by the Grandjury for Lascivious carriages towards some young persons of the Female kinde The Court having heard & considered of what was alleaged & proved against him therein do Sentence him to pay twenty Shillings in mony as a fine to the County, to bee paide by thursday the. 11th of this instant May, or that then hee stand upon a block or stoole in the market place in Boston with a paper upon his breast written in a Large character **For Lascivious Carriages towards young women**, & to pay charges of prosecution. & fees of Court Standing committ^d untill the Sentence bee performed.

KINGMAN Sentenc^d

Edward Kingman of Weymouth present^d to this Court by the Grandjury for drunkenness; which hee acknowledged; The Court Sentenc^d him to pay ten Shillings in mony as a fine to the County and Fees of Court standing committ^d untill this Sentence bee perform^d

CHELSON Sentenc^d

Mary Chelson being imprisoned & called before the Court to answer for her committing of Fornication [377] & having a bastard Childe; which Shee owned in Court and charged Steven Jenkins of piscataqua to bee the Father of it. The Court Sentenced her to bee whip't with Fifteen Stripes & to pay Fees of Court & prison standing committed untill this Sentence bee performed.

GROSS Sentenc^d

Jsaac Gross being imprisoned & called before the Court to answer for his committing Fornication with Esther Nichols & other misde-meano^{rs} which hee acknowledged in Court: The Court Sentenced him to bee whip't with twenty Stripes or to pay Five pounds in mony fine to the County & Fees of Court & prison standing committed untill this Sentence bee perform^d

HEMENWAY present^d

Ruth Hemenway present^d for exceeding her ranke in her apparrell etc. The presentment not being proved fell.

[Boston Licences]

M^r John Viall upon certificate from the Select men of Boston had his Licence renewed to keepe a house of publique entertainm^t to sell wine & beere by retaile for the yeare ensuing; who gave in bond with Sureties for his observance of the Laws respecting Jnn keepers & that hee should not sell Sider for more then two pence a quart.

Thomas Sexton upon like certificate had his Licence renewed to keepe a house of publique entertainm^t to Sell beere & Sider by retaile for the yeare ensuing, who gave in bond with Sureties for his observance & performance as aboues^d

Serj^t Sam^l Norden upon like certificate had his Licence renewed to keepe a house of publique entertainm^t & to Sell beere & Sider by retaile for the yeare ensuing; who gave in bond wth Sureties for his observance of the Laws respecting Jn keepers & that hee should not Sell Sider for more then two pence a quart.

Cap^t W^m Wright upon like certificate had his Licence renewed to keepe a house of publique entertainment, & to Sell wine beere & Sider by retaile for the yeare ensuing; who gave in bond with Sureties for his observance of the Laws respecting Jnkeepers & that hee should not sell Sider for more then two pence a quart.

Francis Hudson upon like certificate had his Licence renewed to keepe a house of publique entertainment & to Sell beere & Sider by retaile for the yeare ensuing, who gave in bond with Sureties for his observance of the Laws respecting Jnkeepers & that hee should not Sell Sider for more then two pence a quart.

Clement Gross upon like certificate had his Licence renewed to keepe a house of publique entertainment & to Sell beere & Sider. by retaile for the yeare ensuing, who gave in bond with Sureties for his observance of the Laws [378] respecting Jn keepers, & that hee should not sell Sider for more then two pence a quart.

William Norton upon like certificate had his Licence renewed to keepe a house of publique entertainment & to Sell beere & Sider. by retaile for the yeare ensuing, who gave in bond with Sureties for his observance of the Laws respecting Jnkeepers & that hee should not sell Sider for more then two pence a quart.

Benjamin Phippany upon like certificate had his Licence renewed to keepe a Cookes Shop & to sell beere & Sider by retaile for the yeare ensuing; who gave in bond wth Sureties for his observance of the laws respecting Jnkeepers & that hee should not sell Sider for more then two pence a quart.

John Frankes upon like certificate had his Licence renewed to keepe a house of publique entertainm^t & to sell beere & Sider by retaile for the yeare ensuing, who gave in bond wth Sureties for his observance of the Laws respecting Jnkeepers & that hee should not sell Sider for more then two pence a quart.

William Pollard upon like certificate had his Licence renewed to keepe a house of publique entertainment & to sell beere & Sider by retaile for the yeare ensuing; who gave in bond with Sureties for his observance of the laws respecting Jnkeepers, & that hee should not sell Sider for more then two pence a quart.

Nathanael Bishop upon like certificate had his Licence renewed to keepe a house of publique entertainment & to Sell beere & Sider by retaile for the yeare ensuing who gave in bond with Sureties for his observance of the Laws respecting Jnkeepers & that hee should not sell Sider for more then two pence a quart.

John Turner upon like certificate had his Licence renewed to keepe a house of publique entertainment & to Sell wine beere & Sider by retaile for the yeare ensuing, who gave in bond with Sureties for his observance of the laws respecting Jnkeepers & that hee should not sell Sider for more then two pence a quart.

Robert Cox upon like certificate had his Licence renewed to keepe a house of publique entertainment & to sell beere & Sider by retaile for the yeare ensuing, who gave in bond with Sureties for his observ-

ance of the laws respecting Jnkeepers & that hee should not sell Sider for more then two pence a quart.

Constance mattox upon like certificate had her licence renewed to keepe a Cookes Shop & to sell beere & Sider by retaile for the yeare ensuing & her husband Sam^{ll} mattox [379] gave in bond with Sureties for her observance of the laws respecting Jnkeepers & that Shee should not sell Sider for more then two pence a quart.

Rebecca Winsor upon certificate from the Select men of Boston had her Licence renewed to keepe a Cookes Shop & to sell beere & Sider by retaile for the yeare ensuing & gave in bond by Sureties for her observance of the Laws respecting Jnkeepers & that Shee should not sell Sider for more then two pence a quart.

William Kent upon like certificate had his Licence renewed to keepe a Cookes Shop & to sell wine beere & Sider by retaile for the yeare ensuing, who gave in bond with Sureties for his observance of the Laws respecting Jnkeepers & that hee should not sell Sider for more then two pence a quart.

John Keene upon like certificate had his Licence renewed to keepe a Cookes Shop & to sell wine beere & Sider by retaile for the yeare ensuing, who gave in bond with Sureties for his observance of the laws respecting Jnkeepers & that hee should not sell Sider for more then two pence a quart.

L^t John Smith of winnisimmet upon like Certificate had his licence renewed to keepe a house of publique entertainment & to sell wine beere & Sider by retaile for the yeare ensuing; who gave in bond wth Sureties for his observance of the laws respecting Jnkeepers & that hee should not Sell Sider for more then two pence a quart.

Thomas Matson prison keeper upon like certificate had his licence renewed to sell beere by retaile in the prison for the yeare ensuing; who gave in bond wth Sureties for his observance of the Laws respecting Jnkeepers.

Widdow Wardall upon like certificate had her licence renewed to keepe a house of publique entertainm^t & to sell beere & Sider by retaile for the yeare ensuing, and her Sonn Seth Perry gave in bond with Sureties for her observance of the Laws respecting Jnkeepers & that Shee should not sell Sider for more then two pence a quart. [380]

[Licences in other towns]

Elizabeth George, upon certificate from the Selectmen of Dorchester had her licence renewed to keepe a house of publique Enter-tainm^t & to Sell wine beere & Sider by retaile for the yeare ensuing; who gave in bond with Sureties for her observance of the Laws respecting Jnkeepers & that Shee should not sell Sider for more then two pence a quart.

Joshua Fisher upon certificate from the Select men of Dedham had his licence renewed to keepe a house of publique Entertainment & to sell wine beere & Sider by retaile for the yeare ensuing; who gave in bond with Sureties for his observance of the laws respecting Jnkeepers & that hee should not sell Sider for more then two pence a quart.

L^t Sam^l Ruggles upon certificate from the Select men of Roxberry had his licence renewed to keepe a house of publique enter-tainm^t & to sell wine beere & Sider by retaile for the yeare ensuing; who gave in bond with Sureties for his observance of the laws respecting Jnkeepers & that hee should not sell Sider for more then two pence a quart.

Nathanael Beale upon certificate from the Select men of Hingham had his licence renewed to keepe a house of publique entertainm^t & to sell wine beere & Sider by retaile for the yeare ensuing who gave in bond with Surety for his observance of the laws respecting Jnkeepers & that hee should not Sell Sider for more then two pence a quart.

Nathan Bradley upon like certificate from the Select men of Dorchester had his licence renewed to retaile Sider for the yeare ensuing, who gave in bond with a Surety for his observance of the Laws & that hee should not sell Sider for more then two pence per quart. [381]

Benjamin Brisco upon his petition had licence granted him to retaile strong waters by small quantities for the yeare ensuing; who gave in bond with Sureties for his observance of the laws respecting retailers of strong waters & that hee should not sell any to the Jnhabitants of the Town to drinke it in his house.

William Tay upon his petition had licence granted him to distill & retaile strong waters by small quantities for the yeare ensuing;

who gave in bond wth Sureties for his observance of the laws respecting distilling & retailing of strong waters & that hee should not sell any to the Inhabitants of the Town to drinke it in his house.

m^r Samuel Brackenbury upon his petition had licence granted him to distill & retaile strong waters by small quantities for the yeare ensuing; who gave in bond wth Sureties for his observance of the Laws respecting distilling & retailing of strong waters & that hee should not sell any to the Inhabitants of the Town to drinke it in his house

Ann puglice upon her request had her licence renewed to distil & retail strong waters by small quantities for the yeare ensuing; who gave in bond by Sureties that shee should observe the Laws respecting distillers and retailers of strong waters & that Shee should not sell any to the Inhabitants of the Town to drinke it in her house.

Thomas Smith upon his petition had his Licence renewed to distil & retaile strong waters by small quantities for the yeare ensuing; who gave in bond with Sureties for his observance of the Laws respecting distillers & retailers of strong waters & that hee should not sell any to the Inhabitants of the Town to drinke it in his house.

Joseph How upon his petition had his licence renewed to retaile strong waters by small quantities for the yeare ensuing; who gave in bond with Sureties for his observance of the laws respecting Retailers of strong waters & that hee should not sell any to the Inhabitants of the Town to drinke it in the house.

John Sweete upon his request had his licence renewed for the yeare ensuing to retaile strong waters by small quantities as formerly for the Supply of Fishermen and Seamen.

This Court dissolved pr^o May. 1676. [382]

WING to SHEAFE

John Wing personally appeared before the worpp^l John Pynchon & Edw^d Tyng Esq^{rs} Assist^s pr^o May. 1676. & confessed judgement against himselfe & Estate unto Sampson Sheafe or his lawfull Attourney for ninety pounds good & lawfull mony of New-England according to bond on file. dat^d February. 18^o 1675.@

as attests. Js^a Addington Cler

Execution issued 27^o Decemb^r 1677.

BINGLEY to SHEAFE

Thomas Bingley personally appeared before the worpp¹¹ John Pynchon & Edw^d Tyng Esq^{rs} Assist^s pr^o May. 1676. & confessed judgement ag^t himselfe & Estate unto Sampson Sheafe or his lawfull Attourney for Seventy Four pounds three Shillings & two pence in mony according to Acco^t on file underwritt by s^d Bingley. dat^d 7th X^{br} 1675 @

as attests. Js^a Addington Cler

Execution issued 5^o feb^r 1680.

Boston. June. 5th 1676 @

DAVENPORT Clerke of the Writts

m^r John Davenport is authorized & impoured by the Magistrates of the County Court of Suffolke (at pu^rsent) to officiate as Clerke of the writts in the Town of Boston.

as attests. Js^a Addington Cler

Boston. June. 22^o 1676. @

BROUGHTON to GRAVES

m^r Thomas Broughton personally appeared before the worpp¹¹ Samuel Symonds Esq^r Dep^t Gov^r & Joseph Dudley Esq^r Assist. & confessed judgement ag^t himselfe & Estate unto John Graves for thirty pounds in New-England goods as cattle & other pay at mony price being in full of a bill of Exchange drawn upon him the s^d Thomas Broughton by Samuel Hall. dat^d July. pr^o 1673. and accepted by s^d Broughton; which bill is on file.

as attests. Js^a Addington Cler

Execution issued Aug^o 15^o 1676.

SYMONDS to NOTT

Harlackenden Symonds personally appeared before Thomas Clarke & Joseph Dudley Esq^{rs} Assist^s July. 24^o 1676. & confessed judgem^t against himselfe & Estate unto Cap^{tn} William Nott for Four pounds in mony. of New-England

as attests. Js^a Addington Cler

Execucion issued 7^{br} 29^o 1676 [383]

PEACOCK to ROBINSON

Samuel Peacock personally appeared before John Pynchon and Edw^d Tyng Esq^{rs} Assist^s July. 24^o 1676. & confessed Judgement against himselfe & Estate for Eighteen pounds in mony unto Thomas Robinson according to bill on file dat^d april: 18^o 1675.

as attests. Js^s Addington Cler

Execucion issued Jan^{ry} 24^o 1676/7. [384]

At A County Court held at Boston July. 25^o 1676

Present

JOHN LEVERETT Esq^r Gov^r

SAM^{ll} SYMONDS Dep^t Gov^r

EDWARD TYNG Esq^r

THO: CLARKE

WILLIAM STOUGHTON

JOSEPH DUDLEY

} Esq^{rs}

Grandjury Sworn

m^r John Bowles

Barth^o Cheevers

Joseph How

John Bateman

Theoph: Frary

Sam: Sendall

Tho: Weld Sen^r

Robert Badcock

Alex^a Mash

John Pratt

Joshua Beale

Abram Jones

Tim^o Dwight

Daniel Pond

Tho: Tolman

Tho: Trott

John Plimpton

Jury of Tryalls Sworn

Cap^t Jn^o Holbrooke

Jn^o Oliver

Tim^o Batt

Caleb Iamb

Tim^o Hide

Tho: Voss

James Bracket

Joshua Lincoln

Rob^t Fuller

Jn^o Thurston Sen^r

Obadiah Swift

Samuel Capen

[PURKIS v. EAST]

George Purkis Tinman plaint. ag^t Thomas East Tinman Defend^t in an action of the case for the Forfiture of an Obligation of thirty Four pounds Lawfull mony of New-England under his hand & Seale bearing date February. 18^o 1675. by his not performing the condition there underwritten with all other due damages according to attachm^t dat. May. 12th 1676. . . . The Jury . . . founde for the plaintife thirty Four pound the Forfiture of the bond & costs of Court The Magistrates on motion of the Defend^t chancered this Forfiture unto Eighteen pounds Seven Shillings and three pence halfe penny in mony & costs of Court twenty three Shillings.

Execucion issued. July. 27^o 1676.

[HAWKINS v. SHEAFE]

Thomas Hawkins plaint. ag^t Sampson Sheafe Defend^t in an action of the case for withholding a debt of One hundred and Seventy pounds or thereabouts due by the s^d Sheafes promise to the s^d Hawkins, or that the saide Sheafe deliver to the s^d Hawkins what mony hee hath already received more then was his just due upon the Mort-

gage, and those bills for the remainder of what shall hereafter bee due for the house or houses so sold being the remainder of what was due to the s^d Sheafe of two houses & Lands mortgaged by the s^d Hawkins to the s^d Sheafe & m^r Thomas Thacher Senio^r which the s^d Sheafe promised should bee paide or delivered to the s^d Hawkins when hee the s^d Sheafe had received his just due that the Land was mortgaged for, the s^d Sheafe having now received his just due or more as will more plainly appeare, being greatly to the damage of the plaintife with interest & all other due damages according to attachm^t dat^d 7th July 1676. . . . The Jury . . . founde for the plaintife Seventy Four pounds Fourteen Shillings damage in mony & costs of Court being twenty two Shillings. [385] Charles Oughtred Attourney for the Defend^t appealed from this Judgement unto the next Court of Assistants and himselfe principall in One hundred Forty Four pounds and m^r Tho: Deane & Seth Perry Sureties in £.74. apeice bound themselves respectuely . . . on condition the s^d Charles Oughtred Attourney afores^d should prosecute his appeale . . .

[Another of the series of cases that begins on p. 1. This judgement was reversed by the Court of Assistants (Records, i. 689), and Hawkins seems to have abandoned his attempts to restore his ruined fortunes by litigation.]

WOODMAN ag^t HUTCHINSON

Jonathan Woodman plaint. ag^t Elisha Hutchinson Defend^t This case was agreed by the partys in Court. being decided by m^r Woodmans Oath.

DEANE ag^t GIBBS

Thomas Deane plaint. ag^t Benjⁿ Gibbs Defend^t The plaint. withdrew his action.

ALDEN ag^t CLARKE

John Alden plaint. ag^t Thomas Clarke Esq^r Defend^t in an action of the case upon reveiw of an action of the case that was commenced and tryed by the saide Clarke ag^t Alden the last County Court held in Boston in January. 75. whereby the plaintife is damnified to the value of Six thousand foote of boards or Eighteen pounds in Silver and all other due damages according to attachm^t Dat. July. 20th 1676. . . . The Jury . . . founde for the Defendant costs of Court

The plaint. appealed from this Judgement unto the next Court of Assistants and himselfe principall in Eighteen pounds and Ephraim Turner and James Hill Sureties in £.9. apeice bound themselves respectiue in the Summes aforesaide . . . upon condition the s^d John Alden should prosecute his appeale . . .

[See Clarke v. Alden, pp. 213-14, 660, and 685, above. The Court of Assistants confirmed this judgment (Records, i. 66). Later there was trouble about the costs: see Records of Courts of Assistants, i. 158, and S. F. 1471.6.]

RUCK &^a agt. WHARTON

John Ruck Richard Lord and John Blackleach or either of them plaint^s ag^t Richard Wharton Defend^t The plaint^s were nonSuted in failure of process. [386]

GORGES ag^t ROOTES

Ferdinando Gorges plaint. ag^t Thomas Rootes Defendant in an action of the case for refusing to pay unto s^d Ferdinand^o Gorges the principall & the produce of one caske of brandy and one barrell of apples sent by saide Thomas Rootes to Jamaica and consigned to himselfe wth all other due damages according to attachm^t Dat^d 16th June. 1676. . . . The Jury . . . founde for the Defendant costs of Court allow^d Eight Shillings six pence

DEANE ag^t GROSS

Thomas Deane plaint. ag^t Clement Gross Defend^t The plaint. withdrew his action.

HURREY ag^t BRIGGS

William Hurrey or his Lawfull Attourney plaint. ag^t Abraham Briggs Defend^t in an action of the case for withholding a debt of Six pounds in mony as per agreement under the hand of the s^d Briggs as may appeare due to the plaintife by Agreem^t bearing date the. 6. of May. 1676. with due interest and all other due damages according to attachm^t Dat^d June 16^o 1676. . . . The Jury . . . founde for the plaintife Six pounds mony damage & costs of Court allowed by the Court, twenty two Shillings and four pence.

Execucion issued July. 29^o 1676.

WHARTON ag^t TURNER

Richard Wharton plaint. ag^t John Turner Marrin^r sometimes Master of a Catch. called the Bristoll Catch Defend^t in an action of the case for that the s^d Turner hath not according to the Obligation of his bill of Loading delivered sundry goods and two horses which hee received from Robert Tyrrell and the s^d Wharton aboard his s^d Catch at Boston in the month of Novemb^r 1670. the s^d goods and horses being still withheld from them and their order whereby the plaintiffe is damnified to the value of Seventy pounds Sterling or thereabouts, according to attachm^t Dat. 11th July. 1676. . . . The Jury . . . founde for the plaintiffe damage thirty Seven pounds in mony & costs of Court allowed twenty Seven Shillings and Eight pence.

Execucion issued July. 29^o 1676. [387]

HUDSON ag^t DANIEL

Capt^t William Hudson. plaint. ag^t John Daniel Def^t in an action of the case for withholding a debt of twenty Five pounds one third part in mony one third part in beefe and porke and the other third part in corn. due for one yeares Rent of a Farme at a place called wading River, as will more plainly appeare by a lease under the hand and Seale of the s^d Daniel, being greatly to the damage of the plaint. wth all other due damages according to attachm^t Dat. July. 13^o 1676. . . . The Jury . . . founde for the plaint. twelve pounds ten Shillings damage according to contract in Specie and costs of Court, allowed twenty Four Shillings & Eight pence.

Execucion issued Sept^r 13^o 1676.

HEARSY ag^t PHILLIPS

John Hearsy of Hingham plaint. ag^t Nicholas Phillips of Boston. Cooper Defend^t in an action. of debt to the value of twenty Four pounds and Fifteen Shillings in mony due to the s^d Hearsy for Rent of a house & ground in Boston as may appeare by one Lease bearing date the tenth day of February. 1673. under the hand & Seale of the s^d Phillips with all due damages according to attachm^t dat. July. 14th 1676. . . . The Jury . . . founde for the plaint. three pounds Seven Shillings four pence mony damage & costs of Court allowed thirty Shillings & ten pence

ELKIN ag^t HOBART. &^a

Nathanael Elkin or his Attourny plaint. ag^t Joshua Hobart Junio^r and Edward Cowell or either of them Defend^{ts} in an action of the case for withholding a debt of One hundred Forty and Four pounds currant mony of New-England due unto the plaint. upon the Forfiture of theire bond under theire hands and Seales dated in Boston the twenty Second day of Novemb^r 1675. as will more plainly appeare with all due damages according to attachm^t dat^d July. 20th 1676. . . . The Jury . . . founde for the plaint. One hundred Forty four pounds mony Forfiture of the bond & costs of Court. The Court on request of the Defend^t chancered this Forfiture to the Summe of Seventy three pounds Seven Shillings six pence in currant mony of New-England & costs of Court, allowed. thirty Eight Shillings [388] and Six pence halfe penny: Edward Cowell the Defend^t (who onely appeared to answer the action) appealed from this Judgem^t unto the next Court of Assistants & himselfe principall in One hundred Forty three pounds and Nathanael Reynolls and Thomas Harris Sureties in £-73- apeice acknowledged themselves respectiuey bound . . . on condition the s^d Edward Cowell should prosecute his appeale . . .

[See Records of the Court of Assistants, i. 69.]

FORSTER ag^t WAY

Miles Forster Attourny of John Corn plaint. ag^t L^t Richard Way Defend^t The plaint. withdrew his action.

ARMITAGE ag^t SAVAGE

Joseph Armitage the Assigne of Henry Tucker and Samuel Bennett plaint. ag^t Major Thomas Savage Def^t in an action or actions of debt of about Forty Five pounds of Henry Tuckers, and of about one hundred pounds of Samuel Bennets due by three Judgements of a Court held at Salem; which debts the s^d Savage promised to pay, in that speciall Court wherein hee recovered the Iron workes, the s^d Tucker and Bennett being two of the workemen, with forbearance from the yeare. 1656. according to attachm^t dat^d 3^d July. 1676. . . . The Jury . . . founde for the Defend^t costs of Court.

KINGMAN ag^t BRIDGEHAM

Thomas Kingman plaint. ag^t Joseph Bridgham Def^t in an action of the case for withholding Eight pounds ten Shillings due for ten

cords or thereabout of barke with other due damages according to attachm^t dat. 6th July. 1676. . . . The Jury . . . founde for the plaintife Eight pounds Eleven Shillings damage & costs of Court.

ADAMS ag^t LUX

Alexander Adams plaint. ag^t John Lux Def^t in an action of debt for Eight pounds due by bill & other due damages according to attachm^t dat^d 7th July. 1676. . . . The Jury . . . founde for the plaint. Eight pounds mony according to bill & costs of Court Eighteen Shillings two pence.

Execucion issued July. 31^o 1676. [389]

RAWSON ag^t GLOVERS

William Rawson. plaint. ag^t m^r John Glover m^r Pelatiah Glover and m^r Habakkuk Glover. or either of them. Defend^{ts} in an action of the case for refusing to divide and set out to the s^d Rawson his part of the Reversions and inheritance of Land at Dorchester. due unto him in right of Anne his wife who was daughter of m^r Nathanael Glover dec^d Son of m^r John Glover dec^d by whome the s^d Reversions and inheritance was given unto four of his Sons and their heires for ever, the s^d m^r Nathanael Glover being one of them with other due damages according to attachm^t Dat^d July 20th 1676. . . . The Jury . . . founde for the Defend^{ts} costs of Court being twelve Shillings. The plaint. appealed from this Judgement unto the next Court of Assistants and himselfe principall in ten pounds and John Woodmansey and John Cox Sureties in Five pounds apeice, acknowledged themselves respectiuely bound in the Summes afores^d . . . on condition the s^d William Rawson should prosecute his appeale . . .

[See above, pp. 426, 543, and Records of Court of Assistants, i. 65.]

READ ag^t HALSEY

Obadiah Read assigne of Mary Kemble the widdow and Relict of Henry Kemble plaint. ag^t James Halsey Defend^t in an action of debt for withholding one hundred Eight pounds five Shillings being the Forfiture of s^d Halsey his bond to Henry Kemble with all due damages according to attachm^t dat^d July. 8th 1676. . . . The Jury . . . founde for the plaintife breach of bond One hundred and thirty

pounds mony with costs of Court: The Defend^t moving for a chancery, pleading that part of the Summe was paide (which. the plaint. owned) and declaring that hee doubted not but the whole was by this time paide The Court referred the chancering thereof unto the next Court of this County. [390]

BRECK ag^t EMMONS

John Breck plaint. ag^t Obadiah Emmons Defend^t in an action of debt for the non payment of Seven pounds in mony due by bill with all other due damages according to attachm^t dat^d June. 13th 1676. . . . The Jury . . . founde for the plaintife Seven pounds mony according to bill & costs of Court Eighteen Shillings.

Execucion issued aug^o 15. 1676.

BENNET ag^t HATHORN

Samuel Bennet plaintife ag^t John Hathorn Defend^t The plaint. was non Suted upon non appearance.

WAY ag^t BICKNEL

Richard Way Attourny to m^{rs} Elizabeth Freake administratrix to the Estate of her late husband m^r John Freake dec^d plaint. ag^t John Bicknel Defend^t in an action of the case for non payment of a debt of thirty four pounds five Shillings and nine pence due by booke and due interest with all other due damages according to attachm^t Dat^d July. 11th 1676. . . . The Jury . . . founde for the plaint. nineteen pounds nine Shillings nine pence damage & costs of Court.

SMITH ag^t ROSE

Joseph Smith of Hampton plaint. ag^t Roger Rose Defend^t in an action. of the case for not delivering of Six thousand foote of Merchantable pine boards to the s^d Joseph Smith. or his order. at Boston. according to a writeing given under his hand at Exitor bearing date the 15th of april. 1676. by which the s^d Joseph Smith is much damnified according to attachm^t Dat^d July 8th 1676. . . . The Jury . . . founde for the Defend^t costs of Court. allowed nine Shillings & nine pence the debt not being actionable in this Court.

Execucion issued 15th 7^{br} 1676.

BRIGGS ag^t EAST

Abraham Briggs plaint. ag^t Thomas East Defend^t in an action of debt of ten pounds thirteen Shillings due by bill from under his hand. dated the. 13th of March 1675. with all other due damages according to attachm^t dat^d June. 10th 1676. . . . The Jury . . . found for the plaint. ten pounds thirteen Shillings mony damage & costs of Court. twenty Shillings. two pence.

Execucion issued aug^o 23. 1676. [391]

BRIGGS ag^t HUKLEY

Abraham Briggs plaint. ag^t William Hukeley Defend^t in an action. of debt for not giving him a true and just Acco^t of a parcell of goods delivered to him bound to piscataqua. as may more fully appeare with interest and all other due damages according to attachm^t dat^d June the. 14^o 1676. . . . The Jury . . . founde for the plaint. that the Defend^t shall give to the plaintife a just and true Account of the goods received with the produce thereof in one month's time or in defect thereof pay nineteen pounds Sixteen Shillings mony & costs of Court.

[See Hukeley to Rawson, above, p. 677, and Rawson v. Briggs, below, p. 713.]

EAST ag^t LANCASTER

Thomas East plaintife ag^t William Lancaster Def^t in an action. of the case for withholding of a parcell of goods to the value of three pounds in money as shall appeare by witness the s^d Lancaster tendred part of the s^d goods the. 14th of June. 1676. with all due damages according to attachm^t dat^d July. 20th 1676. . . . The Jury found for the plaintife that the Defend^t shall deliver up to the plaintife the goods Sued for within six dayes or in defect thereof pay three pounds in mony & costs of Court twenty two Shillings and ten pence.

Execucion issued Aug^o 4th 1676.

LONG ag^t COX

Zechariah Long or his lawfull Attourney plaint. ag^t Margaret Cox widdow Defend^t in an action. of a debt of twenty Four pounds five Shillings and eight pence or thereabouts in mony due as by a bill

under her hand bearing date the. 15th of April. 1675. may appeare with due interest and all other due damages according to attachm^t dat^d July. 17th 1676. . . . The Jury . . . found for the plaint. twenty Four pound Five Shillings eight pence mony damage according to bill and costs of Court being thirty four Shillings Six pence.

Execucion issued July. 31^o 1676.

GILLAM &^a ag^t SMITH

Benjamin Gillam and Richard Sharp plaint^s ag^t Thomas Smith Senio^r Defend^t in an action of trespass for intr trenching upon and unjustly molesting them in the enjoiment and improvement of their Land cutting down their Fence whereby they are hindred from securing that [392] which they have planted upon their s^d land with other due damages according to attachm^t dat^d July. 14th 1676. @ . . . The Jury . . . founde for the plaintiffs five Shillings damage and costs of Court. allowed Fifty one Shilling and ten pence.

Execucion issued aug^o 11. 1676.

GIBBS ag^t PERRY

Benjamin Gibbs plaint. ag^t Seth Perry Defend^t The plaint. was non Suted upon non appearance.

BELCHER ag^t WEBB &^a

Joseph Belcher plaint. upon Replevin ag^t Christopher Webb and James Brackett Constables of Brantery Def^{ts}

This action was continued untill the next Court by ord^r

BRIGGS ag^t MATSON

Abraham Briggs plaint. ag^t Thomas Matson. prison keeper Def^t The plaint. was non Suted in failure of process

GIFFARD ag^t WILLETT

John Giffard plaint. ag^t Jacob Willett Defend^t The plaint. was non Suted in failure of process

RAWSON ag^t BRIGGS

William Rawson of Boston plaint. ag^t Abraham Briggs Defend^t in an action of the case for that hee saide Briggs did trade with

William Hukeley who was Servant to s^d Rawson and they two differing hee the s^d Briggs cast him into prison and there detaining his s^d Servant for above five weekes space although hee was told hee was a Servant, which tends to the great damage of the plaintife with other due damages according to attachm^t dated in Boston July. 20th 1676. . . . The Jury . . . found for the Defend^t costs of Court allowed by the Court Seven Shillings The plaint. appealed from this Judgement unto the next Court of Assistants & himselfe principall in ten pounds and John Woodmansey & John Cox Sureties in £.5. apeice acknowledged themselves respectiuey bound . . . on condition the s^d William Rawson should prosecute his appeale . . .

[For the preliminaries of this case, see Hukeley to Rawson at the January session (p. 677 above), and Briggs v. Hukeley at this same session. In S. F. 1469.10 is a deposition by Thomas Broughton, dated July 27, 1676, to the effect that he paid Hukeley 13/ for his services from 4 July, 1671, to 1 March, 1672.

In the following Reasons of Appeal (S. F. 1469.7) there are several references to the printed Laws and Liberties (1672 ed.); there is also one of the few instances that we have observed in this volume of a reference to a previous judicial decision by a Massachusetts court; see above, p. 365.

William Rawsons Reasons of Appell from y^e Judgment of the last County Court held in Boston July. 25. 1676. in y^e action between himself as Plaintiff and Abraham Briggs Defendent.

1st The appellant humbly conceives he is wronged by the Defendent taking away his right under Colour of law contrary to y^t [Clause] of the law, page 1st which saith no mans goods or estate shall be taken away under Colour of law, the Appellant haveing already proved in y^e former Court that William Hukely was his servant by an execution legally extended upon his person by vertue of a Judgment acknowledged by y^e sd Hukely for forty pounds in mony, and thereupon he y^e sd Hukely voluntarily & freely surrendred himself to serve out y^e Debt wth y^e Appellant, which being Done y^e Appellant humbly conceives that y^e sd Abraham Briggs by no law established amongst us could imprison & detain his servants from him wthout satisfaction, nor could y^e Jury give such a verdict before his execution were satisfied to take him out of his hands being contrary to law & practise amongst us, as in Maj^r Savage's Case and although Spencer's Credit^{rs} sued & sued, but never recovered judgment against him so as to disturb y^e said Maj^r Savages right of Possession. Therefore I appealed

2 Because this verdict of y^e Jury deprives y^e Appellant of y^e benefit of y^e law Page 194. title Masters, Servants &c. and instead thereof and contrary thereto gives his servant liberty to trade for himself & others no way taking notice of the penalty mentioned in y^t law.

3. Because y^e Jury by their verdict have Contrary to those two laws title Arrests Page. 6th sect. 1st & that of Direction to Marshalls & other officers about executions

Page 20th of y^e new laws.¹ the first Declareing that the Debt^r shall satisfy his Debt by service if y^e Credit^r require it who may sell him if he please; and if so then J humbly conceive legally my estate, and how y^e Jury overshot themselves in giving such verdict by vertue whereof y^e Appellant is deprived of his servant for five weekes before y^e Court, and hath been ever since y^t Court, and that before his Debt is Satisfyed by service as y^t law directs J cannot understand

and secondly that law title Direction to Marshalls & other officers which sayth in so many words that lands & houses taken on execution, and delivered to y^e person, or persons and duely recorded (and so was that Hukely by the Officer, and himself given to the Appellant to serve out his debt which hee hath not half Done) shall bee a legall assurance, the same reason holds good in one as well as another, and y^e law declares it to bee goods as to persons as estates and so was this in all respects done. And yet to be deprived, and instead of enjoying his own be found against him and pay costs he accounts to hard, and therefore he appealed not doubting of the Justice of y^e Court, and his just relief and reversion of the former Judgment he leaves himself & cause to y^e Righteous Judgment of this Court

William Rawson

These Reasons were received August. 31^o 1676.

per Js^a Addington Cler]

HEYWOOD to BRATTLE

John Heywood of Concord Taylor personally appeared in Court July. 25^o 1676. and confessed Judgement ag^t himselfe unto Capt^a Thomas Brattle of Boston for thirty one pounds Six Shillings five pence to bee paide in good Merchantable provisions to currant price or otherwaies to content.

as attests. Js^a Addington Cler [393]

PRATT &^a to ELLISTON

Timothy Pratt and Josiah Cooper personally appeared in Court and confessed Judgement ag^t themselves and Estates jointly and severally for Four pounds in mony unto George Elliston according to bill on file. dat^d July. 27^o 1676.

as attests. Js^a Addington Cler

Execution issued 3^d Septemb^r 1677.

MARSTON to GIBBS

Ephraim Marston of Salem personally appeared in Court and confessed Judgement ag^t himselfe and Estate unto Benjamin Gibbs of

¹ Supplementary law of 1675, p. 220 of the 1887 reprint.

Boston for ten pounds ten Shillings in currand money of New-England according to bill on file. dated. 21^o X^{br} 1675.

as attests. Js^a Addington Cler

Execucion issued. 9^{br} 15^o 1676.

Committee about BROMBY'S Estate

m^r Anthony Checkley and William Coleman are authorized and impoured as a Committee to receive the claimes of the Credito^{rs} to the Estate of Francis Brombey dec^d to audit and pass theire accounts and to proportion the Estate among them according as it will beare and that m^r David Edwards Administrato^r to s^d Estate with the advice of the s^d Committee do appoint a time for the Credito^{rs} to come in and give speedy notice thereof unto them and to make Return of what they do therein to the Court of this County.

PRATTS Guardians

William Pratt Son of Thomas Pratt late of Weymouth dec^d appeared in Court and made choise of Capt^a John Holbrooke and John Bicknel of weymouth to bee his Guardians; which they accepted and the Court approved of.

Thomas Pratt Son of the s^d Tho: Pratt made choise of his uncle John Pratt to bee his guardian (his Father having bestowed him on him in his life time) which hee accepted and the Court approved of.

Abigail Pratt daughter of the aboues^d Tho: Pratt made choise of Tho: White of Weymouth. to bee her guardian which. the Court approved of; hee accepting thereof

Committee for Setling of PRATTS Estate

The Court orders and impowres Capt^a William Torrey, Deacon Thomas Dyer and Serj^t John Bailly to bee a Committee for the Setling and proportioning of the Estate of Thomas Pratt of Weymouth dec^d unto the Children of the s^d Pratt, having first deducted such Summe out of the Estate as the Adm^r hath covenanted to pay unto Lidia Relict of s^d Pratt in right of her Dowre; having respect in theire division to his eldest Childe as being most unable to provide for her Selfe; [394] and to make return of what they do herein unto the next Court of this County for confirmation.

m^r DAVIE added to the Committee about TEMPLES Estate.

m^r Humphry Davie, is added to the Committee appointed by the Court about S^r Tho: Temples Estate in the roome of Capt^a William Davis dec^d

Freeman Sworn

Joshua Lincoln of Hingham tooke the Oath of Freedom of this Colony.

HORD presented

Joseph Hord Junio^r presented for idleness in his calling The presentment not being proved fell.

STRETTON Sentenced

William Stretton being bound over to this Court to answer for his breaking open. Majo^r Thomas Clarkes warehouse in the night and Stealing thence one dozⁿ of woosted Stockins valued at three pounds and one Jvory hafted knife one Shilling; which hee confessed in Court: The Court having duely weighed and considered the case do sentence the s^d Stretton to pay unto Majo^r Tho. Clarke Six pounds two Shillings in mony being treble damages according to Law the goods stoln being returned again and to pay Fees of Court standing committed untill this Sentence bee performed.

m^r DEANE added to the Committee about Majo^r CLARKE
and HANS buisness.

m^r Thomas Deane is appointed to Supply the place of m^r John Wensley in the Committee referring to the buisness between majo^r Tho: Clarke & Capt^a Tho: Brattle & m^r Peter Bracket guardians unto John Hans Exec^r unto his Father Marke Hans dec^d to which Committee is also refered the difference about Five butts of Sugar by consent of the parties.

Committee about m^r BENDALLS Estate

m^r Thomas Deane, m^r Paul Dudley and m^r Richard Middlecott are authorized and impoured to bee a Committee for the receiving of the claimes of the Credito^{rs} to the Estate of the late m^r FreeGrace Bendall dec^d to audit & pass theire accompts making return of what they do herein to the Court of this County: The Credito^{rs} who are in this Country to bring in theire claimes by the next Court of this

County the Credito^{rs} in England or elsewhere to bring in their claimes within twelve months next insuing, the Committee to appoint time and place of meeting for receiving of the s^d claimes.

DAVENPORT Record^r

m^r John Davenport is authorized & impoured to bee Record^r for the County of Suffolke; and the Records are to bee delivered up unto him.

BENNET Sentenced

Mary Bennet having formerly charged her Selfe with Stealing sundry goods from her late Master Henry Thomson, the greatest part of which confession Shee retracted [395] in Court, onely some small things Shee owned Shee had Stol'n The Court having duly considered thereof do Sentence the s^d Mary Bennet to bee whip't with Fifteen Stripes and to pay unto m^r Henry Thompson thirty Shillings in mony damage and to pay Fees of Court and prison standing committed untill the Sentence bee performed.

FREEMAN Sentenced

Mary Freeman convict^d by her own confession in Court of stealing sundry goods from m^r James Whetcomb valued at three pounds and Six pence The Court Sentenced her to pay unto m^r Whetcomb treble damages according to Law Standing committed untill the Sentence bee performed.

PARKES admonish't

Mary Parkes being bound over to this Court for Selling ale without Licence and taking three pence per quart for it The complaint not being fully proved The Court admonish't her, ordered her to pay Fees of Court & so discharged her.

WELLS & ODAY Sentenced

Thomas Wells and Martha Oday being imprisoned till this Court to answer for their committing Fornication and having a bastard Childe; which they confessed in Court: The Court Sentenced the s^d Thomas to bee whip't with thirty Stripes and s^d Martha with twenty Stripes & to pay Fees of Court & prison standing committed untill this Sentence bee performed.

BOULTER Sentenced

Rowland Boulter being charged with committing Fornication with Rebecca Cotton, by whome shee saith Shee hath had a Childe, and made Oath thereof in Court: The midwife also & some others who were with her in the time of her travail making Oath that Shee did constantly affirme the same in all her extremity: The Court Sentenc^d him to pay the charges of s^d Rebecca her lying in, nurseing of the Childe born by her whils't it Lived & the charges of its buriall being. £4:12:0. & to pay Fees of Court standing committed &^a

COTTON Sentenced

Rebecca Cotton convict^d by her own confession in Court of committing Fornication with Rowland Boulter by whome Shee had a bastard Childe: The Court Sentenced her to bee whip't with twenty Stripes & to pay Fees of Court standing committed untill the Sentence bee performed.

HORD discharged

Joseph Hord being presented for Idleness & neglect of his calling: The presentment not being proved fell.

FARNUM's discharge from traynings &^a

John Farnum Miller & his Sonn upon his petition are discharged from attending upon ordinary traynings watchings or wardings.

The Court adjourned from Friday. 28^o July unto Thursday. 3^d of august following at nine a clock in the morning. [396]

August. 3^d 1676. @

The Court met according to adjournment.

Present

JN^o LEVERETT Esq^r Go^r
EDW^d TYNG Esq^r

W^m STOUGHTON }
THOMAS CLARKE } Esq^{rs}
JOSEPH DUDLEY }

DAVIS Fined. 2^l

Samuel Davis junio^r convict^d in Court by his own confession of stealing a peice of plate from m^r John Keen valued at Fifty Shillings

The Court Sentenced him to bee whip't with ten Stripes or to pay Forty Shillings in mony as a fine to the County & to pay unto m^r Keen 3^{ble} damages according to Law & Fees of Court & prison standing committed untill this Sentence bee performed.

ATHERTON ordered to Return to his wife.

Jonathan Atherton presented for living from his wife contrary to Law; hee owned in Court that hee had been long from his wife, but his buisness was not yet done and so hee could not goe home: The Court ordered him to return unto England unto his wife by the next Court of this County under the penalty expressed by Law.

WALES Sentenced

Timothy Wales convict^d in Court by his own confession of Stealing a lock of a gun from Experience Willis valued at five Shillings; and also being charged by s^d Willis for Stealing from him two Rasors & a case valued at five Shillings; which hee made Oath hee had lost. The Court Sentenced him to bee whip't with ten Stripes or to pay Forty Shillings in mony fine to the County & to pay unto Experience Willis twenty five Shillings in mony being .3^{ble} damages according to Law, the Lock being returned again and to pay Fees of Court standing committed untill this Sentence bee performed.

Order concerning TURNERS prison charges.

The Court Orders that the Town of Portsmouth do Satisfy Thomas Matson prison keeper of Boston for his charges in keeping Phillip Turner for the time hee hath already had him in his custody, and that they take care for the future to Satisfy his prison charges, or else that hee bee returned unto Portsmouth from whence hee came.

BOSON Indian Sentenc^d

Tom Boson Indian accused for breaking open Majo^r Clarkes Warehouse and abuseing of the watch; the abuse given to the watch being fully proved against him: The Court Sentenced him to bee severely whip't with thirty Stripes to pay charges of prosecution Fees of Court & prison standing committed untill this Sentence bee performed.

PEGGE Fined 5¹

Rose Pegge convict by her own confession in Court for Selling ale without licence: The Court Sentenced her to pay Five pound in mony according to Law and Fees of Court standing committed untill the Sentence bee performed [397]

MESSENGER discharged from traynings &^a

Henry Messenger Senio^r by reason of many infirmities of body and great charge in his Family is freely discharged from attending on ordinary traynings & watchings.

LOWLE admonish't

John Lowle presented for neglect of his calling, a common frequenter of ale houses & excessive tipling contrary to Law which hee confessed in Court, expressing his sorrow for the same & promising to reforme: The Court Sentenced him to bee admonished & to pay Fees of Court.

DINELYS discharge as Adm^r

Hanna Dinely presenting to this Court a Supplement to the Inventory of the Estate of her late husband Fathergone Dinely dec^d with an acco^t of her administration upon the s^d Estate and moving for a plenè administravit The Court accepted of the Acco^t & granted the Administratrix a quietus est.

THOMAS admitted upon good behavio^r

Upon the petition of Alice Thomas unto the Generall Court for a readmission to bee an Inhabitant of Boston being referred by the Generall Court to the Court of this County for an answer: This Court were pleased to readmit her, during her good behavio^r

This Court dissolved Aug^o 3^d 1676. @

CLAY to HOBBEY

Thomas Clay formerly of Cape bonne waggon Fisherman personally appeared before Simon Bradstreet Esq^r & Joseph Dudley Esq^r Assist^s & confessed judgem^t ag^t himselfe & Estate unto William

Hobbey for Ninety Five pound Six Shillings & ten pence to bee paid in Merchantable Fish refuse Fish or Oyl at price currant according to bond on file. dated. 8^{br} 4th 1676. this done October. 6th 1676. @
 as attests. Js^a Addington Cler
 Execucion issued October. 7th 1676.

BROUGHTON to ALLIN

m^r Thomas Broughton personally appeared before the Worpp^{ll} Samuel Symonds Esq^r Dep^t Gov^r & Daniel Denison Esq^r Assist. October. 18th 1676. & confessed judgement against himselfe & Estate unto John Allin of Salisbury Adm^r to the Estate of Jedediah Andrews late of the same place dec^d for Eight pounds in currant pay valued by indifferent men, in full of all Acco^{ts} & demands.
 as attests. Js^a Addington Cler [398]

PRIDE to CLARKE &^a

John Pride late of Cape bonnewaggon personally appeared before the Worpp^{ll} Samuel Symonds Esq^r Dep^t Gov^r & Simon Bradstreet Esq^r Assist. October. 19th 1676. & confessed judgem^t ag^t himselfe & Estate unto Majo^r Tho: Clarke & Cap^{tn} Tho: Lake for Fifty Five pounds Seven Shillings six pence to bee paid at Boston Salem or Marblehead in Merchantable Fish Refuse Fish & oyl at price currant according to bill on file. dat^d 18th October. 1676. & declared at the same time that hee Surrendred his Estate & his person as a Servant unto the s^d Clarke & Lake untill the debt were fully Satisfied.
 as attests. Js^a Addington Cler
 Execucion issued Octob^r 20th 1676.

WESGATE to TYNG

Adam Wesgate personally appeared before W^m Hathorn & John Pynchon Esq^{rs} Assist^s October. 28th 1676. and confessed judgem^t against himselfe & Estate unto Edw^d Tyng Esq^r for ten pounds Fifteen Shillings & four pence in mony, being for so much remaining due upon a bond bearing date. Novemb^r 24th 1674. @
 as attests. Js^a Addington Cler
 Execucion issued Octob^r 27^o 1677.

WILLIAMS to BRADING

Richard Williams formerly of Marblehead Fisherman personally appeared before Edw^d Tyng Esq^r & Joseph Dudley Esq^r assist^s October. 30th 1676. & confessed judgem^t ag^t himselfe & Estate unto James Brading of Boston for One hundred Sixty Seven pounds Seventeen Shillings & Six pence in full ballance of all accompts to bee paid in Merchantable Fish & refuse Fish at price currant.

as attests. Js^a Addington Cler

Execucion issued 31^o 8^{br} 1676. @ [399]

At A County Court held at Boston. October. 31^o 1676. @

Present

JN^o LEVERETT Esq^r Gov^r

SIMON BRADSTREET Esq^r

EDW^d TYNG

THO^s CLARKE

JOSEPH DUDLEY } Esq^{rs}

Grandjury the same as at the former Court.

Jury of Tryalls Sworn

L^t John Smith

Humphry Warren

W^m Coleman

Jabesh Salter

Jn^o Gravener

David Jones

Hopestill Clap

Nathan^{ll} Kingsberry

Daniel Hencher

John Baily

John Thurston Sen^r

Edw^d Wilder

[WALLEY v. SYBERY]

John Walley plaint. ag^t Jonathan Sybery of or late of Wye River in Maryland Def^t in an action of the case for the non payment of nine thousand three hundred & Fifty two pounds Tobacco due by bill with all other due damages according to attachm^t dat^d July. 12th 1676. . . . The Jury . . . found for the plaint. Forty Six pounds nineteen Shillings four pence mony & costs of Court allowed twenty Six Shillings & eight pence This action was tryed at last July Court but judgem^t not published nor being entred untill this Court according to Law was now published. pr^o Novemb^r 1676.

Execucion issued Novemb^r 2^d 1676.

[DEANE v. PERRY]

Thomas Deane of Boston Merchant plaint. ag^t Seth Perry Def^t in an action of debt upon account to the summe of twenty Seven pounds five Shillings & four pence in mony being the ballance thereof with all due damages according to attachm^t dat^d october. 23th 1676. . . . The Jury . . . found for the plaint. twenty Seven pounds five Shillings & four pence in mony & costs of Court allow^d Fifteen Shillings & two pence. The Def^t appealed from this judgem^t unto the next Court of Assistants & himselfe principall in £.56. & John Walley & Asaph Eliott Sureties in £.28. apeice bound themselves respectiely . . . on condition the s^d Perry should prosecute his appeale . . .

[This case had reference to base malt and bad beer, as appears in Perry's Reasons of Appeal (S. F. 1555):

. . . after this J met him and told him of a loss J had sustained by this mault Jn Long Jsland where it wold not sell but maid them sick that drunk the beere maide of his mault: hee still told mee as afore and said hee beleued it wold make good beere if J wold but put Jn good store of melases and he said that my loss Cold not be so great as J did Jnmagen because J was to pay nothing but beere: th[u]s hee treated mee from time to time perswading mee to grind all the mault a forsaide and Brought an Instanc of a gentell man his neighbor viz m^r shrimpton whoo Lost sum mault for want of grinding it: saying mault wold not Keep good: vngrownd as wold when grownd: by this time m^r deane is so perswaded of the badness of the mault that hee tells mee J must vse none of it for him he wold not haue his sea men to drink any such beere fore feare it shold doe them hurt and thus hee for wored mee againe and againe Jn these verry words: and told mee it made such heuie beere hee cold not drink it speaking of that Jn his fammely although there were but 1 sack Jn six of his viz m^r d[ea]ns base mault and the other: fue verry good mault. m^r deam spak to mee to Brew 4 or fue tun of beere for a ship saying that J must find Cask also: J told him J must giue money or that equivalent for Cask and his [O^r] was beere and not money after sum words hee Came to mee and spake so as J only heard him that if J Refused hee could sue mee for the first bargain or to that efect.

so that there [se]ems to be a fallacy Jn his oath viz m^r deanes: or a Reseruatiō and that this is good Euedence J Leaue to this honoured Court and Jury]

DEANE ag^t GIBBS

Thomas Deane plaint. ag^t Benjamin Gibbs Defend^t in an action of the case for not delivering him posession of a certain warehouse & wharfe &c scituate in Boston due or belonging unto him the s^d Deane by virtue of a deed of Sale or Mortgage for the same bearing date July. 21th 1674. long since forfeited, as by the s^d deed reference thereunto being had will more fully appeare, with all due damages according to attachm^t dated. Octob^r 25^o 1676 . . . the Jury . . . found [400] for the plaint. possession of the warehouse wharfe &c according to Deed & costs of Court allowed twenty Five Shillings & four pence.

Execucion issued x^{br} 22^o 1676.

CLEMENTS agt LISLEY

Richard Clements or his Attourney plaint. ag^t Robert Lislely Defend^t in an action of debt of two pounds Fifteen Shillings Sterl. mony of New-England due by bill bearing date the second day of May last past & paiaible in two dayes after the arrivall of the Joane

of Corke in New-England, with all other due damages according to attachm^t dated. 7^{br} 5th 1676. . . . The Jury . . . found for the plaint. two pounds Fifteen Shillings mony and costs of Court; allowed Sixteen Shillings & eight pence.

Execution issued Nov^r 8th 1676.

WILLIAMS ag^t LAKE

John Williams plaint. ag^t John Lake Def^t in an action of the case for not delivering or shewing of a parcell of goods (attached by Return Wayt Marshalls Deputy upon the .8th March. 1675. & then owned by s^d Lake to bee in his hands to the value of nine pounds belonging to Ezekiel Fogg) unto Joseph Webb the Marshall Gen^l^{ls} Deputy when demanded upon Execution agt. said Fogg & company; but s^d Lake contrary to Law and to the great damage of the s^d Williams, did dispose of & deliver to the s^d Fogg many of the goods after they were attached & owned to bee in his hands, wth other due damages according to attachm^t dat^d octob^r 5th 1676. . . . The Jury brought in a Speciall verdict. i.e. if the testimony of John Morse Joseph Webb & Nathanael Williams bee invalid, wee finde for the Def^t costs of Court, if not wee finde for the plaint. three pounds Sixteen Shillings mony & costs of Court. The Magistrates declare for the Defendant costs of Court.

WILLIAMS agt. WESSELL

John Williams plaint. agt. Doctor Hartman Wessell Def^t in an action of the case for withholding a debt of Fifty three Shillings in mony due by booke & due interest & all other due damages according to attachm^t dat. august. 16. 1676. . . . The Jury . . . found for the plaint. two pounds thirteen Shillings mony and costs of Court allow^d thirteen Shillings and eight pence.

Execucion issued Feb^{ry} 12^o 1676/7.

ALFORD ag^t ENDICOTT &^a

Benjamin Alford Attourney to John Sweeting Junio^r pl^t ag^t John Endicott & John Scotto Exec^{rs} in trust to the Estate of Andrew Sheppard dec^d Def^{ts} in an action of the case for that the s^d Exec^{rs} have refused or neglected to give unto the s^d Alford a true & just

acc^o of all the produce profits Earnings or Effects of one quarter part [401] of the Barque Thomas and Mary whereof the s^d Shepard was sometime m^r from the time the s^d Alford last made up an account with the s^d Sheppard in behalfe of the s^d Sweeting to this day, and also for not surrendering the quart^r part of s^d Barque & all other Estate or Effects that was in the hands of the s^d Sheppard belonging to the said Sweeting; whereby the Estate of the s^d Sweeting is damnified about One hundred pounds mony unto him the s^d Alford & all other due damages according to attachm^t dat^d October. 26. 1676. . . . The Jury . . . found for the plaintife that the s^d Exec^{rs} shall give a true acco^t of the one quarter part of the vessell Sued for called the Thomas & Mary with all the profits & loss made with s^d Vessell since the acc^{os} last made up, to bee done within twenty dayes next following under the penalty of One hundred pounds mony & costs of Court. The Defend^{ts} appealed from this judgem^t unto the next Court of Assistants & themselves principall in one hundred pounds & Robert Sanford & John Morse Sureties in Fifty pounds apeice acknowledged themselves respectiuey bound . . . on condition the s^d John Endicott & John Scotto should prosecute their appeale . . .

[This case arose over the estate of Andrew Shepard of Boston, who died in Boston after a voyage to dispose of logwood, some particulars of which are in the following documents:

S. F. 1718.12

M^r Sweeting

Boston in New England June 9^o day 1675

S^r These are to lett you understand, our Safe arrivall in Boston, the Sixth of this Instant, but with great danger, : for J mett with a great Spaniard, one that J Judge Some Thirty Six Guns at least, whom fired Some Sixteene or Eighteene gunns at vs, and at last forced us to Strike where we lay for the Space of two glasses, alongst his Side within pistoll Shott, but through gods mercy made our Escape, the Spaniard being fearfull to Send his boate on board, J Suppose for feare wee had bene a man of warr, for we did not Strike till night So that he Could not discerne what we were J intend if please God to goe to the windward Jslands and if J Can put of the Vessels effects to touch at Corre Soe, and See what may be done there, J haue Spoke with m^r Alford, and by the next oppertunity you Shall heare of the affaires, and what will be done, the Negro and the Cloathes my wife Receiued, with the money, m^r Hawford is left in the bay, and would desire you to Send him downe Some powder and Shott, to the vualue of three pounds and provisions, if that you not Sent any of that J writt for, So no more at present J Rest Your friend and Servant to Command

Andrew Sheppard

Vera Copia attest^r Js^a Addington Cler

S. F. 1718.15

Port Royall y^e 11th of June 1675M^r Benja^a Alford

S^r Yo^{rs} 23th March lyes before mee, & the fish of my fath^r all Sould, which is well, though by the porke was Losse, being the worst J Ever Saw, marked by the packer in my life, but Conclude was noe fault of yo^{rs}, The account of our Jrish Cargo Should haue bene glad to haue Seene, but at present am just bound for London, & no new England vessell in port, which makes me leaue these letters behinde mee, to be Sent you by the first, Therefore if Said accounts are not Sent before receipt hereof, desire the Same to London, but the produce hether in provisions, Consigned for my account, or father, to Cap^t Sam^l Bache, which pray let be in good porke, Cod fish, bread, pease flower, butter and traine Oile, which for present Sell well Jn my last J advised you of a bill of Exchange, on m^r Pincheon for £5: but then forgott to incloase it you, at present you haue it which request you to gett accepted & paid, & in default protested which keepe by you, till the arrivall of m^r Paine or Tucker, when Shall Send you their bond for a greater vallue, besides what will accrue on the bill of Exchange, by non payment. J have wrote m^r Pincheon about it, & assure you had J not Stood S^d Paines friend, must here haue Sold his Vessell, & Consequently ruined his voyage, J hope long before this is arrived the barque Tho: & Mary, ma^r Andrew Sheppard wth Logwood, wherein am Concerned a Quarter part of Vessel and victuals, for which you'l receiue about three, or three tuns. $\frac{1}{2}$ for my Share, & £8:15 my $\frac{1}{4}$ of 35^l Said Sheppard receiued of David Edwards, for Loading his vessell in the Bay for all which please to give my acco^t Currant & also if the vessell be Sold, for my $\frac{1}{4}$. part of her produce, and if fitted out againe disburse for me, what my part Comes to, but if they Sell and you finde them desirous to buy another, Concerne mee not therein, which J would not haue you let them know, till you haue all my part of money & wood in, nor then neither if you Can avoid it, you may tell them, that J am gone for London and haue left it to you, and that you beleiue it will not bee for my Jntrest, at So remote a distance which J leaue to you to mannage, better knowing how to putt them offe then my Selfe, but however it fall out will not be Concerned, because Cannot be here to mannage it, Else would, knowing it proffitable The acco^{ts} of all desire may be Sent me for London directed to me as junior, The nett proceeds of what my acco^{ts} amounts to, Send as before, and with what Speede you Cann from London, where God Sending mee in Safety shall be againe God willing, troubling you with my lines and other matters, Jntrim haue only to adde my due respects Committing you to divine providence J Remaine

Yo^r assured friend & Servant at Command

John Sweeting

S^r

When next you See Madam Tailer, please to know of her whether or no She^s disirous, J should buy for her those things She desired of me, at parting, and if She^s of the Same minde Let me know it, by the first to London, & her Commands shall be Carefully observed.

Jdem J S

Vera Copia attest^r Js^a Addington Cler.

S. F. 1718.13

March 10 th	At Trefijce in the Bay of Campeachy 1674 The barque Thomas and Mary D ^r in money to disburstm ^{ts} as followeth	<i>li s d</i>
	To Nails and boards in the bay	0:15:00
	To Tallow	1:10:00
	To the Carpenter	0:10:00
	To Boate hire to Loade the vessell w th wood her third part	2:06:08
Boston this	To Custom of Eight Tuns of Logwood	0:10:00
June 14 th	To Drinck to the Carpenters	0:01:00
25	To Nails and Spikes	4:02:00
July. 12 ^o	To Drinck to the Carpenters	0:02:00
	To Sheet Lead	0:00:06
15	To Nails and Spikes	2:—:—
16	To Nails	0:02:00
	To m ^r Greenough for Sheathing & other necessaries . . .	28:17:06
	To One barrel of Tarr	0:09:00
	To Drinck at Seuerall times	0:05:00
22.	To Nayles	0:05:00
24.	To Cordage & Cappell	17:05:00
	To Jsaac Sheffell Carpenter	0:14:00
	To the Smith	0:13:10
	To m ^r More Carpenter	1:09:00
	To m ^r Fisher Carpenter	1:11:06
	To m ^r Thornton for nails timber and planck	0:17:06
	To Ballast: 9 ^s . To Twine 2. 10 ^d	0:11:10
	To 2 Oares and Setting poles of m ^r Scarlett	0:08:09
30.	To the mason for worke, time & bricks about the Cookroome	0:11:00
	To Wages for my Selfe & boy: & the boyes dyet	6:03:04
	To Pump nails and Candles	0:02:00
	To m ^r Thornton for one board	0:01:06
	To Saile needles 2 ^s To the Sawyer 2 ^s : To Blocks 12 ^s . . .	0:16:00
	To m ^r Scarlett for a Stick to make a mast and making .	1:08:00
	To the Smith for hinges for the Cabbin doore, and plates for the pumpe and b[o]lts	0:04:06
	To Three barrels of Tarr	1:14:00
October 20 th	To m ^r Hallaway for gra[v]ling the vessell	1:05:00
75	To Scupper nails & other nails. 6. To Ballast 5 ^s . . .	0:11:00
	To Three halfe houre glasses	0:03:00
	To Beefe and Salt to Salt it	6:02:06
	To the fitting 2. Compasses	0:04:00
	To One hand Saw and three brooms	0:02:09
	To Bunting for vaines & Crosse for the antient	0:06:08
	To a Joynor for worke done aboard & for a [b]iddi[ce]ll .	0:07:06
	To firewood 8 6 ^d To Candles 20 ^l 10 ^s	0:18:06
	To one paire of maine Sheets & maller	0:16:00
	To Porke pease and bread	8:10:00
	To Two tun & halfe of water Caske & halfe a tun of beare	3:12:00
	To Two boles & Two dishes & halfe a doz ⁿ of Spoones	0:03:06
		<hr/> 99:10:04

99:10:04 M^r John Sweeting D^r Since March the
 49:15:02 10th 74 To Andrew Sheppard as
 24:17:07 followeth

	<i>li s d</i>
To my Care as master Six Weeks a loading m ^r David Edwards	1:05:00
To Disburstments Since the 10 th of march 74. To 5 hundred of Logwood Receiued more then your propper part	3:00:00
For. $\frac{1}{4}$ part of fitting to Sea	24:17:07
after acco ^t made up for $\frac{1}{4}$ part of a Cann bought for the vessels use	:—05
	29:03:—

per Contra Cr.

By the Quarter part of provisions laid in Jamaica, with the advance of 2 barrels Sold	12:18:06
By your Quarter part of money earned in the Bay of m ^r David Edwards	8:15:00
By Two Tuns of Logwood deliuered according to yo ^r order, to m ^r Benjamen Alford	
By Three fraights two from Piscataque and one from Capeann	1:00:05
By a Punn Sold	0:17:06
	23:11:05
For: Ballance due to Andrew Sheppard	5:11:07
	29:03:00

Vera Copia attest^r Js^a Addington Cler

A copy of Andrew Shepard's will is in S. F. 1718.9; it is sufficiently explained in this letter of his executors relating the circumstances of his death (S. F. 1657.4):

Boston in New England June 26^o 1676

M^r John Sheppard

S^r These Serue to informe you, that Soone after your brother Andrews arrivall, here he fell Sick and Lived not Longe, but in the time of his Sicknesse his wife also fell Sick, and before m^r Sheppard dyed he did apprehend, little hopes of his wifes Life, whereupon he made his will, and Left us Joint Executo^{rs} & gaue his Estate after Charges and debts were paid (in Case his wife did dye within one yeare & a day) to your Selfe, reserving only Two or three small Legacies Now his wife dyed within Two or three dayes after m^r Sheppard, and we tooke Care for their honorable interrment, and yet endeauored to be as good husbands as we Could, we having Secured the barques Loading of wood, together with the Cloaths & houshold goods, wee haue also by the Desire of m^r Sheppard & advice of merchants here Sould Three Quarter part[s] of the Barque, which part we understood by m^r Sheppard that he did owne, we also understood that m^r Hawford, owned one Quarter of her, So in faithfullnesse to him, (ther being no person here to assert his Jntrest) we haue Taken Caution from the parties that haue bought the $\frac{3}{4}$ to be accountable to m^r Hawford or order, for that part of the Vessell and her proceeds. Now S^r we desire you with what Convenient Speede

you may to Come to Boston and receiue the Estate left into your hands, in the meane time assure your Selfe, that we Shall use our vttmost Endeauo^{rs} to Secure & promote your intrest and Serue you to the vttmost of our ability, thus with our kinde Love & respect to your Selfe we Remaine

You^r assured friends & Servants

John Endecott

John Scottow

Own^d in Court pr^o August 1677 by the parties Subscribing

as attests Js^a Addington Cler

Copia vera attest^r Js^a Addington Cler

Letters of administration from the Prerogative Court of Canterbury for Shepard's English property are in S. F. 1718.7. An account of his funeral expenses and the inventory of his estate follow:

S. F. 1718.8

An Inventory of the goods & Estate of Andrew Sheppard of Boston dec^d prized by Nathanel Greenwood & William Greenough of s^d Boston Shipwrights as followeth taken the. 1st day of June. 1676. @

	<i>li s d</i>
Imp ^{rs} his wearing apparrell	16:15:—
his wives wearing apparrell	5:01:00
two Bookes	:08:—
one remnant of Quinting	:04:—
one pair of andirons	:08:—
one pair bellows. 18 ^d one chafin dish. 12 ^d one Spit 20 ^d	:04:02
one trammel .18 ^d one Iron pot and hookes 6 ^s	:07:06
one Frying pan. 18 ^d one brass Kettle. 35 ^s	1:16:06
six pewter platters small. 15 ^s old pewter. 2 ^s	:17:—
lattin ware. 4 ^s . Earthen Juggs. 2 ^s	:06:—
woodden dishes and trenchers	:02:—
one looking glass. 6 ^s a glass case and glasses. 6 ^s	:12:—
one grater. 3 ^d one table and. 5. chaires. 15 ^s	:15:03
4. Silver Spoones. 40 ^s —3. gold buckles. 25 ^s —1 silver thimble. 2 ^s —1. set of Silver buttons—3 ^s —2. pair of buckles. 6 ^s —one gold ring with a Stone—10 ^s —	4:06:—
Child bed Linnen	1:00:00
5. Napkins .1. table cloth & 2 pillowbeers	00:10:06
3. cotten and linnen Sheets—1. fine holland Sheete one towel	2:10:—
one brush .12 ^d one Cane. 5 ^s	00:06:—
Sea Instruments	:15:—
2. fowling guns—1 caduse box—2 pair bullet moulds	3:00:—
1. looking glass .18 ^d	00:01:06
1. pallet bedsteed—1. green Rugg & 2. blankets	2:03:—
1. large bedsteed curtains vallents Featherbed and boulster and one green Rugg	6:00:—
3. Chests and one deske	1:15:—
2. matt chaires. 3 ^s —1. wicker basket. 3 ^s	0:06:—
1. bed pan. 9 ^s —1. fire Shovel and tongs. 3 ^s	:12:—

	<i>li</i>	<i>s</i>	<i>d</i>
1. halfe head bedsted. 6 ^s —caske & some meale. 8 ^s			:14:—
2. bush ^{l^{ls}} Corn			:06:—
2. old bb ^s —2. earthen pots & some soft Sope			:08:—
a. box and heaters 3 ^s —Firewood. 3 ^s			:06:—
a. Negro girle			15:00:—
¼. of the Barque Thomas and Mary with her tackle & appurtenances .			63:15:—
23 ^{un} 19 ^e 2 ^{qr} 27 ^{li} of Logwood at. 7 ^{li} per ton q ^t 668 sticks supposed all to bee s ^d Sheppards			167:18:06
A debt due to the Estate from m ^r Eliakim Hutchinson			50:00:00
	Summa		£349:08:11

Nathaniel Greenwood

William Greenough.

John Scottow and John Endicot Executo^{rs} of the last will of Andrew Sheppard personally appeared before John Leverett Esq^r Gov^r and Edward Tyng Esq^r Assist. June. 14^o 1676. and made Oath that this paper contains a just and true Inventory of the Estate of the said Andrew Sheppard to the best of their knowledge and that when they know more they will discover it.

as attests Js^a Addington Cler.

. . . true Coppie . . . Js^a Addington Cler

S. F. 1718.10

The Estate of Andrew Sheppard is D ^r to John Scottow & John Endicot for Sundry Disburstm ^{ts} viz			<i>li</i>	<i>s</i>	<i>d</i>
To money p ^d John Endicot for so much Lent Andrew Sheppard before he dyed			5:—:—		
To money p ^d Ditto for Soe much Lent m ^{rs} Sheppard before she dyed . .			1:10:—		
To Brandy Bread & wine & Beare for m ^{rs} Sheppard & her watchers . .			—:06:—		
To mony p ^d for a Pallat Beadstead			1:01:—		
To mony p ^d for two Coffins posts & Rayles			2:—:—		
To ringing the Bell and digging the graves			—:08:—		
To mony for m ^r Tailer for wine			—:15:—		
To the washer woman			—:01:—		
To Sunday Disburstm ^{ts} on relations & watchers and at apprizing the goods			—:06:04		
To the Nurse			—:05:—		
To Portorage & Expences at unloadeing the Barq[ue]			—:08:—		
To mony p ^d m ^{rs} Sheppard's Negro by her Ord ^{rs}			—:06:—		
To mony p ^d the Carter for removeing the goods			—:02:09		
To a Porter			—:02:—		
To Aireing the goods & other Charges			—:03:06		
To m ^r Sheppards nurse			—:10:—		
To Ieremiah Fitch for Gloves for the Funerall			5:—:—		
To Thomas Heath for Murning			9:12:—		
To Thomas Bingly for Murning			7:11:—		
To Expences About Sale of the Vessell			—:08:07		
To Weighing and Houseing the Loggwood			2:—:—		
To Expences at Sundry Times			—:17:04		

	<i>li s d</i>
To ringing the Bell and Black Cloth	—:03:—
To m ^r John Hayward for drawing the will Inventory acco ^{ts} Examining writeings &c	2:—:—
To m ^r Elisha Cooke for medicines as per Receipt	2:16:—
To m ^r Dudley for Custome of Loggwood	—:15:—
To m ^r Addington for writeing	—:05:06
To mony p ^d will ^m James for mony [L]ent m ^r Sheppard in y ^e bay	1:05:—
To Rich ^d Smith for Severalls dd to m ^r Sheppard	—:15:10
To Jn ^o Cragg Phisitian for medicines &c	4:—:11
To W ^m Snelling Phisitian	1:10:—
To Edward Budd for house rent	2:18:—
To Expences at Receipt of mony for the Barq[ue]	—:[7]:—
To m ^r John Davenport for his Servants keepeing the barq[ue]	1:10:—
To docto ^r Chichery	—:04:—
To Necessaryes for the Negro	—:02:—
To m ^r Tailer for wine at the funerall	—:15:—
To Belnap for Gloves	1:—:—
To Rob ^t Carver for a Debt	8:03:—
To Edw ^d Budd for mony Lent m ^r Sheppard	—:17:06
To Clothing for the negro	—:10:—
To a Legacy given to John Endicot	5:—:—
To a Legacy given to John Scottow	5:—:—
To Goodwife George for a paire of fine Sheets	1:—:—
To Ditto for Butter dd to m ^{rs} Sheppard	2:—:—
To m ^r Anthony Chichery for a debt due per bill by m ^r Sheppard	5:—:—
To six months warehouse roome & Charges for about y ^e weighing of the Loggwood	7:—:—
To mony to W ^m Aglin for a debt	—:02:06
To mony for a pillow beare borrowed per M ^{rs} Shepperd & Lost	—:03:06
To Disburstm ^{ts} at Two Courts w th m ^r Alford in defending the Estate . . .	2:01:08
To Disburstm ^{ts} in defending the estate at a Court ags ^t Hawford Higgs & Middlecot	2:10:09
To Disburstm ^{ts} in defending the Estate at a Court of assist ^s against mid- dlecot	2:07:—
To Seventeene weekes Dyet for the negro at 4 ^s per weeke	3:08:—
To Rent for a Chamber to lay up the goods	2:10:—
To M ^{rs} Emory per Execution	53:05:—
	<u>159:19:10</u>
To John Scottow for his trouble & time in attendance upon Courts &c . .	10:—:00
To John Endicott for his trouble & time in attendance upon Courts &c . .	10:00:00
	<u>179:19:10</u>

Signed by [] 8: 77 John Scottow
John Jndecott

Per Contra C^r

	<i>li s d</i>
By weareing apparrell household goods loggwood & mony Recd as per Invent	349:08:11

John Shepard, Andrew's brother, died at Wicomico, Maryland, according to the following deposition (S. F. 1718.27):

S. F. 1718.27

Abraham Blagg of Plymouth in Old England Marriner, aged Twenty foure yeares or thereabouts, deposeth and Saith, that Sometime in December last past, being in Wicacomaco, in the province of Mary land, aboard the good Ship Thomas & Mary of London, Cap^t William Adams Command^r and intmatly acquainted with him, mett on board said ship with one John Sheppard Brother to Andrew Sheppard of Boston Deceased, as he said, where in discour[se] heard him relate of his intention for old England and Holland, with the Said William Addams, and there buy a Shipp and So intended for Boston in New England, to Settle all his accounts there and to receiue what his Said brother Deceased had left him, by will, but it so pleased god that about the 13th day of December last past to visitt him with a fitt of Sicknesse and J being desired by Cap^t W^m Addams abouementioned to accompany him on Shoare, to the house where he Lay, did visitt him in his Said Sicknesse, and perceiving little hopes of his Life, he was there in this Deponents hearing, desired to Settle all his Concernes, by making his will, Saying that by that his dayes would neither bee Lengthened nor Shortned, whereunto he readily Consented, and this Deponent was then desired (for want of another Scribe there being no man Capacitated that way present) to draw his will, which he accepted, and drew it, as it may more evidently appeare, by a Probate under the hand and Seale of the honorable Phillip Calvert Esq^r Secretary of state in the province of Mary Land, which will, this Deponent Saw Signed Sealed and deliuered, by the Said John Sheppard to the Seuerall vses therein Specified and that then (as it is in the Said will Exprest,) to the best of this Deponents Judgment he was of a Sound minde & memory though weake in body, and this deponent further Saith that he Saw the Said John Sheppard Deceased to take boate to goe on Shoare, when he was first of all visited with Sicknesse to Seeke meanes for his recovery — and that he was then to the best of this Deponents Judgment, noe way overtaken in drinke and this Deponent further Saith he was Seuerall times in the Company of the Said John Sheppard, Deceased, before he was taken Sick and never Saw him to the best of his Judgment in Drinke, though plentifully enough to be had, and further this Deponent Saith not.

Taken vpon Oath this 25th day of may 1677

Before me Thomas Brattle Commiss^r

Copia Vera attest^r Js^a Addington Cler

On appeal to the Court of Assistants (Records, i. 79), the judgment was reversed. After that Mrs. Martha Emery of Nevis, W. I., who, as Ann Bromehall deposed (S. F. 1718.30), was the only surviving legitimate child of Andrew Shepard's parents, petitioned the Court as follows (S. F. 1718.5):

To the Honrd Governo^r Deputy Governo^r & the Rest of y^e Worspp^{ll} Magistrates Now Assembled in the Court of Assistants in Boston this 4 of Sep^t 1677

The Petition of Martha Emery the wife of and attorney unto her husband Thomas Emery of the Island of Nevis

Humbly Sheweth

That whereas my brother Andrew Sheppard deceased died here in Boston made his will wherein he made Iohn Scottaway and Iohn Endicott Executors and gave most of his Estate to his & my own brother Iohn Sheppard who died unpossessed thereof both dying with out issue I being thier own sister & the only child liveing of our parents; & M^r Richard Middlecott by vertue of a letter of Attorney from one in Virginia is now in prosecution by law in ord^r to the obtayning the Estate for a person no way Related My humble Petition to this Honrd Court therefore is that Yo^r Hon^{rs} would be pleased to accept these few lines by way of Caution to prevent the said Estate from being delivered to those that have no right to it but to Consider how nearly I am concerned in reference thereunto

1 In being thier own sister as will appear by Evidence here in town & therefore the proper heiress to it

2 Because my husband as is well known to severall in this town have formerly been at great Charges in bringing up my two brothers now deceased when they were young in the West Indyes

3 Because my husband when my brother Andrew was grown up sent him out a tradeing betrusting him with a consid^{able} Estate & have ever since had little or no returns the sum of which is Expressed in the Account I have brought with mee & finding the Estate so intangled as it is I have arrested In^o Scottaway & Iohn Endicott Executors to my Brother andrew shepards Estate to Answer my Complaint for what is due on account to my husband at the next County Court to be held at Cambridge Wherefore I humbly request this Honrd Court if it may be with Iustice granted that the property of the Estate may not be altered untill my Condition is Considered and my Case tryed that so I may not be prevented of obtaining what is due to my husband upon account nor of my birthright & Yo^r humble Petitioner shall be ever obliged to Pray &c

Martha X Emery
her Mark

The petition was presented & Read Jn Court 4. Septemb^r 1677. in Court as martha Emery^s Caueat ag^t p^oceeding &c.

as Attests Edw^d Rawson Secret

Several other cases were started against the Shepard estate (see below, pp. 822, 953); but these records do not extend far enough for us to reach the final disposition of them.]

OUGHTRED ag^t BLACKLEACH

Charles Oughtred Attourney to m^r Sampson Sheafe plaint. ag^t John Blackleach Def^t in an action of the case for withholding the Summe of One hundred Fifty Four pounds Five Shillings & two pence in mony due by booke to the s^d Sheafe with all due damages according to attachm^t dat^d July. 21^o 1676. . . . The Jury . . . found for the plaint. one hundred Fifty Four pounds Five Shillings & two pence mony & costs of Court. John Poole as hee is Surety for the Defend^t (& appeared in the case) appealed from this judgem^t unto the next

Court of Assistants & himsele as principall in One hundred Fifty Four pounds & anthony Checkley & Stephen Burton Sureties in £.75. apeice acknowledged themselves respectively bound . . . on condition the abovenamed John Blackleach or John Poole shall prosecute the appeale . . .

[See Records of Court of Assistants, i. 85.]

OUGHTRED ag^t COLLACOTT

Charles Oughtred Attourney to Sampson Sheafe Merch^t assignee to m^r Thomas Thacher Sen^r & Margaret his wife plaint. ag^t Richard Collicott Def^t in an action of the case [402] for denying to deliver and withholding from him the saide Charles Oughtred Attourney afores^d possession of a house & land in Boston sold unto the s^d Thomas Thacher under proviso as per a Deed bearing date the twenty Sixth of August One thousand Six hundred Seventy and three may appeare the proviso of and in the s^d Deed being not accomplished with all due damages according to attachm^t Dat. October. 14^o 1676. . . . The Jury . . . found for the Defend^t costs of Court.

ROSE ag^t SMITH

Roger Rose of Boston plaint. ag^t Joseph Smith Defend^t in an action of unjust molestation for three times arresting his person and Estate hindering his imploy both vessell & company to his great damage according to attachm^t dat^d 26. 7^{mo} 1676. . . . The Jury . . . found for the Defend^t costs of Court allowed by the Court twenty three Shillings & Six pence.

CLARKE &^a agt. HARBOUR

Matthew Clarke & company plaint^s ag^t John Harbour Def^t in an action of the case for over running their Shallop as they were at anchor in the Sea with the Sloop of which the s^d Harbour was Commander, by which meanes the plaint^s lost their Shallop that was well fitted for this Voyage, had in her three hogsheads of Salt twelve barrells of Mackarill and all their fishing craft & their wearing clothes; which is to their damage at the least Eighty pounds in mony besides the loss of the remaining part of this present Voyage the s^d Shallop was over run 22th of September 1676 about two a clock

in the morning wth all other due damages according to attachm^t dat^d 22th Septemb^r 1676. . . . The Jury . . . found for the plaint^s Forty pounds mony damage & costs of Court, allowed by the Court three pounds Eight Shillings and four pence. Samuel Haugh as Surety for the Def^t who appeared at the tryall appealed from this judgem^t unto the next Court of Assistants & himselfe as principall in Forty pounds & Richard Collacot & John Smith Sureties in £.20. apeice acknowledged themselves respectively bound . . . on condition the abovenamed John Harbour or Samuel Haugh should prosecute this appeale . . .

[See Records of Court of Assistants, i. 80.]

MASON agt. LAWTON

John Mason plaint. ag^t John Lawton Defendant The plaint. was nonSuted in failure of process the Def^t being Sued by bond & no bond of his appearing ag^t him. [403]

HARRIS ag^t TURNER

William Harris plaint. ag^t Ephraim Turner Def^t in an action of the case for not paying unto him the s^d Harris the Summe of Fifteen pound Sixteen Shillings and three pence in mony due upon ballance of Account owned & underwritt by s^d Turner as may bee made to appeare with all due damages according to attachm^t dat^d October. 24^o 1676. . . . The Jury . . . found for the plaintiffe Fifteen pounds Sixteen Shillings three pence mony & costs of Court allowed by the Court Fifteen Shillings & two pence; The Def^t appealed from this judgement unto the next Court of Assistants & himselfe principall in Sixteen pounds & Hudson Leverett & John Pease Sureties in Eight pounds apeice acknowledged themselves respectiuey bound . . . on condition the s^d Ephraim Turner should prosecute his appeale . . .

[See Records of Court of Assistants, i. 83.]

JOHNSON agt. HUNT

John Johnson plaint. ag^t John Hunt Def^t in an action of the case for withholding a Shop and the pu^rviledges belonging to it from the s^d Johnson with due damages according to attachm^t dat^d October.

26th 1676. . . . The Jury . . . found for the Defendant costs of Court allow^d by the Court Four Shillings & two pence.

WALKER ag^t WILLETT

Tho^s Walker Attourney to m^r John Jackson of London Exec^r of the last will of Hannah Walker plaint. ag^t Jacob Willett Def^t The plaint. was nonSuted in that hee Sued by bond & produced onely a Coppie the originall lying in England.

WRIGHT agt. GROSS

William Wright junio^r or his lawfull Attourney plaint. agt. Richard Gross Defend^t in an action of the case for withholding of a debt of Eleven pounds five Shillings in mony or thereabouts due for the Freight of One hundred & Fifty quintalls of Fish brought from Cape Sable in the Catch Society, whereof the foresaid Wright being then Master w^{ch} is to the plaint^s damage Eleven pounds five Shillings in mony with all other due damages according to attachm^t dat^d 29th Sept^r 1676. . . . The Jury . . . found for the plaint. ten pounds ten Shillings mony & costs of Court allow^d by the Court twenty Seven Shillings.

Execucion issued Nov^r 11^o 1676. [404]

GILBERT agt. OBISON

John Gilbert plaint. ag^t William Obison Def^t in an action of the case for pulling up two pitts of ware of one hundred poles and so destroying them & his workeing tooles and two upper leather hides tanned & dried lost out of his house, by his wife her takeing the key out of the dore & for making use of his tann liquor and lime liquor without his consent and casting his ware out of the limes and throwing out his household goods into the Streete and carrying his chests with corn in them into the Streete breaking them & spilling the corn & throwing one bushell & halfe of meale into the tanpits and as much pease, splitting the bagg & Spilling the pease in the pitts and about the tan house, wth all due damages according to attachm^t dat^d 9. 8^{mo} 1676. . . . The Jury . . . found for the plaint. twenty pound in merchantable Leather at mony price within twenty dayes next and ten Shillings six pence mony or in default to pay twenty pounds mony

with the ten Shillings six pence mony & costs of Court. The Def^t appealed from this judgement unto the next Court of Assistants & himselfe principall in twenty pounds & William Parsons & Thomas Stanberry Sureties in ten pounds apeice bound themselves respectiue . . . on condition the s^d Obison should prosecute his appeale . . .

[A sheaf of salty depositions may introduce us to this tanners' brawl; they are followed by Obison's delightfully illiterate Reasons of Appeal.

S. F. 1575.5

Samuel Proctor aged 34. yeares Testifyeth

That sometime the last springe, and to the best of my Remembrance was on that day in the Morning, that the honored Governour Winthrop was buried, being in the backside or ground of Thomas Wiborne J heard one Cry. Murther. Several times, about the house that was John Gilberts whereupon J presently ran & told the abouesaid Wiborne, and both him and my Selfe Came to the house of the Said Gilbert, in haste, and J Saw the Said Gilbert & William Obeson, in an vpper roome of y^e Tan house or barne of the said Gilberts, Striving together, and Gilbert Complained that the Said Obeson did gripe him by the throate, soe that he Could Cry out but now & then, and further J Saw the wife of the Said Obeson, pulling of bed cloathes & bedding to a hole, that was in the floore of the loft, and throwing them downe there, notwithstanding the wife of the said Gilbert made a pittfull moane, for her Childe was in the bed, and She pulled off the Cloathes & left the Childe vncovered, then this Deponent tooke hold of the said Obesons wife, to Stay her hand, least that she should throwe downe the Childe with the rest of the things, for J thought by her acting she intended mischief to the Childe, and when she the said Obeson, gott out of my hand she Crept away on her knees, and began to throwe downe more of the Said Gilberts goods vntill we spoke of fetching the Constable, then their rage Seemed to be a little abated, then these deponents went downe into the Lower roome, and J Saw John Gilbert pulling his goods: out of the tan pitts, which the Said Obesons wife had throwne in, both Cloathes & meale, and one bag of pease, was torne and the pease throwne about the tanpitts and further Saith not

Sworne in Court 1^o 9^{ber} 1676

as attests Js^a Addington Cler.

A deposition by Thomas Wiborne, recounting almost the same details, is in S. F. 1575.11.

S. F. 1575.7

Daniel Fairefield doth Testifye, and Saith, that he is 38 yeares of age or thereabouts: he Comeing to worke with William Obbinson, and did to pull Gilberts Leather vp, but was as black as Jnke, and the fatts halfe a foote deepe of Clay, and the owes was throwne away, it was soe bad that all at present to Say

Daniel Fairefield

Sworne in Court prim^o 9^{ber} 1676 as attests

Js^a Addington Cler

S. F. 1575.9

John Maryon Junio^r aged. 25 yeares or thereabouts Testifyeth, that J being in the Company of John Gilbert: Senio^r & William Obison sometime in the latter part of Summer, 75 J then heard John Gilbert Say, he had lett William Obison his howse howsing, Pitts & other things for his trade from that time to Lady day, only the aforesaid Gilbert reserved a liberty to himselfe to worke out his Leather then in the pitts, this is according to my best remembrance, what J then heard John Gilbert Say

Sworne in Court 1^o 9^{ber} 1676
as attests Js^a Addington Cler

S. F. 1956.2

W^m Gilbert testifieth and Saith that J saw this leather in controversy in the yard of Thomas Hill and J turned part of it over, and J declare that J discerned no noysome stinke in that more then in any other Leather; considering it was not throughly dry

Sworn in Court. 29^o Janur^o 80.
attests J. Addington Cl^{re}

S. F. 1575.4

to the honored Covart of asistanc asembled in boston and gentillmen of the Jvre william obinsons reons of apeall from the ivdgment of that [] honored covnty covart in oektobar last in the case of John Gilba[rt] and Said obinson

1 his falls and clamorvs atachment pretending great damedg by pvlling vp too pits of one hvnddred polls but dvs not Say thay ware his: nethar the pits nor the polls: and in deed they w[are] not his: and any othar man myght ashved yovar apellant as well as gillbird: vnder that noshon: and [its] the merit of the Case not try a bill at that time by that proses

2 becavs yovar apellant was sentenced to pay twenty pownds in mony or leathear at mony price when as gilbird shved for nether mony nor leathear: but for pols of ware which can not be vndar stood ane othar but the faces of Skins from the ears to the nos[es]: and the damedg prised bvt fowar pounds: Yovar apellant thinks it tis not vsall for a man to shv for a henn and recover a hors and all thoe gillbird ses I disstroyed them by pvlling them ovt of the pits yet that mvst not pas all ways for a trvth: for the trvth is thay wear disstroyd before thay came into the pitt: for goodman hill the tanor bovft fifte of them of m^r talor for fowar pare of shoos and thay lay in the pitt ny one year and havlf till thay Stvnk and then lookt vpon by gillbirds aprisars worth twenty pownds and so thay might: bvt it was a great whill a goe: and yovar apellant is mvch damnefied in that he had no notis of it nethar of the tim when the damedg was prised nor by home nor what thay had don vntel the covrt came whear he was Cast as afore Said: had I knone it I would have bin thear and a tovld the prisars that his pols ware spoilled long a gon and a made it ovt to them: which I am confident gillbird did not doe: if he had: the gentill men that prised the damedg woold not a thovft: that good lethar in 76 that wos skavengors ware in 74. and yet vntanned: nor that worth twenty pownds in the later end of the year 76 that was bovft for fowar pare of Shoos in 74. and nothing don to it bvt thron into a pit till: that: and the liqre was grown as black as ink: as in farefellds oath

3 becaus if gillbird did svfar damedg he willfvly brovft it vpon him selv for he shovlld have whrovft vp his pols in march and he resarved libarte to doe it then as apears by maryons oath nvmbar 1 bvt he did not onc medill with them: all tho[e] he knv[e] his tim would be ovt in march and he had tovlld m^r Stovghton that he covlld not redeem his morgadg: and then yovar apellant being in the posession of the premises by gillbird was pvt in to posession allso by m^r stovghton: ho[w]s and b[ar]n and [faded] with all the apvrtences writs and priveledges belonging and chardged by my landlord to keep it savf and sownd, if so be that gillbird came thear yovar apellant was not to knoe him and promised yovar apellant to bear him harmles: then gillbird obtained libarte of me and free libarte for I greatly wonted the pits and m^r Stovghton promised me to alow for it in the rent: and I did speak to gillbird vere oftin to com and doe it in treated many a tim: and still his answeare was he cared not shvmbody Shovlld pay for it and yovar apellant spak to severall othars to speak to him as in phrars oath nvmbar 3 and maryons oath nvmbar. 2. and I waited vpon him still all aprill and may which was tim enovf to have don what he had to doe and a great deall more: but he woould not be parswaded to medell with it: he pretended fear of his life at last a falls pretenc as evar wos he came in to the tann yard tym after time, and lay down vpon the tann and slept in his drink and nobody hvrt him and he might have whrovft as [qiv]tly: and have bin a great deall more wellcom: had he pleased: but his disyn was to keep his credittor ovt of posession of the premises: and not intoe it qiatly: what evar he pretended speaking to levetennat. phrare that he would get libarty for him to work vp his letheare. phrars oath nvmbar 3 and maryons doe evinc the same thing

4 he cavs yovar apellant was sentenced to pay tenn shillings and six penc mony for damedg don to peas and meall when as thay wear not damefied at all the meall not any of it spillt: onely a litell part of the bage wet: not on hanfvll Spoyelled and not one handfvll of the peas lost: yovar apellant thinks John gillbird more to blame in this mator allso then him selv tho: whot apeared in yovar apellant or his wife of passion or sellvf intrest or too mvch fondnes in maintaing owar land lords intrest we are redy to acknoledg and are sore for it: gillbird got leave of me to lodg in the barn for too nights and he promised me he wouold bring in nothing bvt his bed and care it away with him earlly in the morning and bgone: bvt as he did in all the rest so he did in this: when the morning came he feched in more stvf and got on his Sord and got a pistoll in his hand I going in to the barn to speak to him to be gon as he promised found him in that postor I was no soonor entored in to the room wheare he was bvt he pvt the pistoll to my brest threatenning to kill me: and took me: by the neck cloath and cried murther to call his companions together and Whearas it is said that I took gillbird by the throat tis vtorly fals nor did I ofar him ane abvs[e] ethar with my hands or tong for I saw it was a plotted biseness to make contenshon and wheare as my wife is ackevsed for ateming to have thrownd down gillbirds childd ti[s] vttraly fals she nethar saw nor hard any child thear bvt being mvch provoaked with gillbirds falls and fravdelent doings tvmlcd down severall things ovt of chamber but nethar saw nor hard ane child thear and as for the pols she thrve in to the lain thvs it was goodman hill one of the Skavengors cam by and saw them ly in the tan yard asked hor what that stvf did thear and bid hor thro them ovt in to the lain: and he being the ownor of it and one of the Skavingors she thrve it ovt to him: this is the trvth: that I have said and in all that I have said and hvmbld

crave yovar honnars servs considoration that so yovar apellant may not be rvn down and trampled vpon by fals and disaitfvll persons nor pay damedg whear he haith don no whrong nor more then is meet [*faded*] he may have don a mis and yovar apellant shall evar pray

W^m [Obbinson]

These Reasons were received Feb^r 28^o 1676[%]

per Js^a Addington Cler.

The Court of Assistants (Records, i. 78) found for Gilbert. Obison was committed to jail for non-payment, as appears in the case of Gilbert v. Matson at the April session, 1677, see below p. 796.]

GILBERT agt. OBISON

John Gilbert plaint. ag^t William Obison Defend^t in an action of the case for detaining his dwelling house & tan yard & barn & the rest of his pitts with all due damages according to attachm^t dat^d 9. October. 1676. . . . The Jury . . . found for the plaint. that the s^d Obison shall give the plaint. quiet possession of his house barn & pitts within Forty dayes or pay Sixty pounds mony & costs of Court allow^d Fifteen Shillings.

[See previous case.]

SWEETE agt. GIBBS

John Sweete Junio^r Attourney of James Sweete, Phillip Sweete Jeremiah Smith & John Gelliot, plaint. ag^t Captⁿ Benjamin Gibbs Defend^t in an action of the case for that the s^d Benjamin Gibbs sometime in the month of September last past did forceably and illegally take away from the s^d persons off from Prudence Jsland in the Colony of Rhode Jsland twenty Five Indian Servants men women & Children & doth still detain and withhold from them theire s^d Servants; which is to the damage of the s^d persons at least one hundred twenty Five pounds in mony with other due damages according to attachm^t dat^d October 10th 1676. . . . The Jury . . . [405] found for the plaint. that m^r Benjamin Gibbs is liable to Satisfy for twenty Five Indians the Summe of thirty Seven pounds ten Shillings mony & costs of Court. Lidia Gibbs as attourney to her husband Benjamin Gibbs appealed from this judgement unto the next Court of Assistants & her Selfe principall in thirty eight pounds & Anthony Checkley and Thomas Savage junio^r in nineteen pounds

apeice acknowledged themselves respectiuely bound . . . on condition the s^d Lidia Gibbs should prosecute her appeale . . .

[The attachment, a power of attorney, and the following deposition (S. F. 1498.2) are the only documents on file for this case, which the defendant appealed to the Court of Assistants (Records, i. 77-8), obtaining a reversal of the former judgment.

John Godfery, aged 27 yeares, or thereabouts, being vpon oath, testifyeth that the Same Sabbath day at Night as Captaine Benjamin Gibbs tooke the Indians, from Canonicus Jsland, in the day he went to prudence Jsland and Ca[me] neere William Allens house, where he Seized on Eight Indians, & Carried them aboard & thence, he went to the house of James Sweete, and thence he broug[ht] Seventeene Jndians more, and Carried them aboard, & Phillip Sweete & James Sweete Challenged the Said Indians, this Deponent further Saith, that it was about Twelue a Clock at Night, when they were taken, Taken vpon Oathe before me this 27th of September 1676 Newport

John Cranston Deputy Govo^r]

ALLICETT ag^t SKILLION

John Allicett plaint. ag^t Thomas Skillion Def^t in an action of the case for not paying his wages due for making his Fish at cape Sable to the value of Seven pounds or thereabouts with due damges according to attachm^t dat^d 9th October. 1676. . . . The Jury . . . founde for the plaint. Seven pounds mony damage & costs of Court allowed thirty two Shillings and eight pence.

Execucion issued Nov^r 11^o 1676.

DAFFORN agt CROW

John Dafforn plaint. ag^t Christopher Crow Defend^t The plaintiffe withdrew his action upon a judgem^t acknowledged

DEANE agt. WING

Thomas Deane plaint. ag^t John Wing Defend^t The plaint. withdrew his action.

HUNT ag^t JOHNSON

John Hunt plaint. ag^t John Johnson Def^t in an action of the case for withholding from him the s^d Hunt a debt of Six pounds in mony due by bill with interest & all other due damages according to attachm^t dat^d October. 26. 1676. . . . The Jury . . . found for the plaint. Six pounds mony according to bill & costs of Court.

PLAINE ag^t NASH

Henry Plaine plaint. ag^t Thomas Nash Master of the Ship called the Speedwell Defend^t in an action of the case for withholding five pounds or thereabout mony Sterling of England due for wages for the plaint^s labour done onboard the Ship Speedwell in her late Voyage from Amsterdam to England Barbados & so hither the plaintife being here cleered from s^d Ship by s^d Master with all due damages according to attachment dat^d 16. 8. 1676. . . . The Jury . . . found for the Defend^t costs of Court. [406]

BENNET agt. GRIDLEY

John Bennet plaint. ag^t Elisabeth Gridley widdow Def^t in an action of the case by defameing the s^d Bennet in saying saide Bennet is a false forsworn wretch whereby the plaintife is so impaired in his credit that if not releived by the Hono^r^d Court it may prove his ruin in the world, with all due damages according to attachm^t dat^d October. 12th 1676. . . . The Jury . . . found for the Def^t costs of Court allowed five Shillings.

Execucion issued Nov^r 4th 1676.

[This arose out of a petty case tried before a Commissioner's Court, 1 August, 1676, and 13 February, 1676/77, for which the papers are in S. F. 1544 and the bill of costs in S. F. 25939.]

LIDGETT ag^t WATTS

Elizabeth Lidgett Exec^x to the Estate of the late Peter Lidgett deceased plaint. against John Watts Def^t in an action of the case for non payment of twenty two pounds Seven Shillings due by bill bearing date the. 17th June Anno. 1674. with interest & other due damages according to attachm^t dat^d 30th august. 1676. . . . The Jury . . . found for the plaintife two & twenty pounds Seven Shillings according to bill & costs of Court, allowed Sixteen Shillings Six pence.

Execucion issued Novemb^r 28. 1676.

EVANS agt. MARE

Agnis Evans plaint. ag^t Henry Mare Defend^t The plaint. withdrew her action.

LAWTON ag^t MASON

John Lawton plaint. ag^t John Mason Defend^t The plaint. withdrew his action.

DAVIE ag^t ALLICETT

Humphry Davie plaint. upon Replevin ag^t John Allicett Defend^t The Replevin & Evidences in the case produced being read & committed to the Jury, which remain on file with the Records of this Court The Jury brought in their verdict they found for the Defend^t costs of Court allowed five Shillings.

DAVIE ag^t SKILLIN

Humphry Davie plaint. ag^t Thomas Skillin Defend^t in an action of the case for a debt due unto him to the value of Eighty pounds in Fish upon acco^t or what shall appeare justly due with due damages according to attachm^t dat^d Sept^r 24^o 1676. . . . The Jury . . . found for the plaintife Seventy nine pounds nine Shillings nine pence according to bill & costs of Court allow^d 29^s 6^d

Execucion issued x^{br} 5^o 1676.

BARTHOLMEW agt. COX

William Bartholmew plaint. ag^t John Cox Defend^t The plaint. withdrew his action.

HUDSON agt. LONG

Cap^{tn} William Hudson plaint. ag^t John Daniel Defend^t The plaint. withdrew his action.

BENNET agt. FLOIDE

Samuel Bennet plaint. ag^t John Floid Def^t in an action of the case for withholding thirty five pounds due for land sold [407] him with all due damages according to attachm^t dat^d 26: 7^{br} 1676. . . . The Jury . . . found for the Defend^t costs of Court.

WHARTON agt. WALLEY

Richard Wharton Attourney to Peter Sayer Attourney & assignee to Jonathan Syberry plaint. ag^t John Walley Def^t The Def^t producing

an order of Generall Court prohibiting m^r Wharton pleading any cause but his own (except that of m^r Samuel Bellinghams) & improving of it for a nonsute, the Court dismis't the action.

WHARTON agt. GUARD

Richard Wharton Attourney to Peter Sayer Attourney & assignee to Jonathan Syberry plaint. ag^t William Guard Defend^t The plaint. was nonSuted upon the same plea as in m^r Walley's case.

HUDSON agt. LEVERETT

Captⁿ William Hudson plaint. ag^t Hudson Leverett Def^t The plaint. withdrew his action.

KNIGHT agt. HUDSON

Richard Knight Collector plaint. ag^t Captⁿ William Hudson Vintner Def^t in an action of the case for withholding the Summe of Forty one pounds or thereabouts in mony due by agreement with s^d Richard Knight Collector for the rates imposed by the Generall Court upon his draught of wine beere ale Cider & Mum from the first of April .1674. unto the .25th of October .1675. being one yeare & Seven months at the rate of twenty Six pounds per annum with all due damages according to attachm^t dat^d October .12^o 1676. . . . The Jury . . . found for the plaintife Forty pounds in mony & costs of Court allowed three pounds Eight Shillings.

Execucion issued Nov^r 8th 1676.

COOKE agt. HUDSON

Elisabeth Cooke Executrix & Elisha Cooke Exec^r of the last will of the late Richard Cooke deceased or either of them plaint. agt. Cap^{tn} William Hudson Defend^t in an action of the case for withholding the Summe of twenty pounds or thereabouts in mony due by Acco^t with other due damages according to attachm^t dat^d October. 12^o 1676. . . . The Jury . . . found for the plaintife twenty pound Seventeen Shillings ten pence halfe penny mony damage & costs of Court allowed Fifty nine Shillings & ten pence.

Execucion issued Nov^r 8th 1676.

TURNER agt. NAILER

Ephraim Turnor plaint. ag^t Edward Nailer Def^t in an action of debt of twelve pound three Shillings ten pence in mony due by bill with interest & other due damages [408] according to attachm^t dat^d October. 24^o 1676. . . . The Jury . . . found for the plaint. twelve pounds three Shillings ten pence mony damage according to bill & costs of Court allow^d twenty one Shilling and four pence.

Execucion issued Decemb^r 9^o 1676.

GIFFARD agt. LEVERETT

John Giffard plaint. ag^t Hudson Leverett Def^t in an action of the case for the not returning or paying the s^d Giffard or his Assigne Abraham Briggs the mony taken up by the s^d Leverett of m^r Timothy Mather being Sixteen pounds cash & mony taken up of m^r Ezekiel Fogg being Forty Four pounds or thereabouts, the w^{ch} s^d Summes the s^d Leverett gave his bill or writing under his hand to make return thereof to the s^d Giffard, with due damages according to attachm^t dat^d 12: 8. 1676. The Def^t objecting ag^t the process for that there were two actions contained in the attachm^t the Def^t declared hee held to the first, the complaint for Sixteen pounds; after which . . . the Jury . . . found for the Defend^t costs of Court.

WAY agt. PEASE

Richard Way Attourney to m^{rs} Elisabeth Freake Administratrix to the Estate of her late husband m^r John Freake dec^d plaint. ag^t John Pease Def^t in an action of the case for nonpayment of a debt of thirty pounds or thereabouts due by booke with just interest & all other due damages according to attachm^t dat^d 24th of October. 1676. . . . The Jury . . . found for the plaintife Fifteen pounds five Shillings eight pence halfe penny mony due upon ball^a of acco^{ts} & costs of Court. The Defend^t appealed from this judgement unto the next Court of assistants & himselfe principall in Sixteen pounds & Thomas Dewer & Hudson Leverett Sureties in Eight pounds apeice acknowledged themselves respectively bound . . . on condition the s^d John Pease should prosecute his appeale . . .

[The parties came to an agreement before the appeal was heard. Records of the Court of Assistants, i. 80.]

ORCHARD agt. BULKELEY

Robert Orchard plaint. agt. Richard Bulkley Defend^t The plaint. withdrew his action.

SANFORD to DEANE

Robert Sanford as Surety for Clement Gross personally appearing in Court, confessed judgem^t ag^t himselfe & Estate unto Thomas Deane merchant for Fourteen pounds one Shilling Six pence in mony according to bill dat^d 20. May. 1676. with charges. m^r Tho. Deane acknowledged the receipt of full Satisfaction of this judgem^t 29. 11^{mo} 76. before J. A. Cler

HILL to PHILLIPS

Thomas Hill Tanner personally appearing in Court confessed judgement against himselfe & Estate unto Eleazer Phillips for Fifteen pounds four Shillings Six pence in mony according to bill with charges.

Execucion issued. x^{br} 15^o 1676. [409]

AVIS to HALGESON

William Avis personally appearing in Court, confessed judgement ag^t himselfe & Estate unto Jngeman Halgeson for Four pounds nineteen Shillings & three pence in mony according to bill on file with costs.

Execucion issued Nov^r 27. 1676.

CARR to CARTHEW

William Carr of Salisbury personally appearing in Court confessed judgement ag^t himselfe & Estate unto John Carthew for Four pounds in mony due by booke.

Execucion issued Nov^r 3. 1676.

LUX to KELLOND

John Lux Senio^r personally appearing in Court confessed judgem^t agt. himselfe & Estate unto Thomas Kellond Merchant for thirty three pounds ten Shillings in mony due by booke.

Execucion issued 22^o 8^{br} 78.

[Freeman Sworn]

Robert Peirpoint of Roxbury tooke the Oath of freedom of this Colony.

ARMITAGE her liberty

Liberty is granted to the widdow Armitage untill the next Court to bring in an Inventory of the Estate of her Son Samuel Armitage.

Grandjury discharged

The Grandjury brought in their bill of presentments Octob^r 31^o 1676. & were discharged.

CROW to DAFFORN

Christopher Crow personally appearing in Court confessed judgement ag^t himselfe & Estate unto John Dafforn for Eight pounds Seven Shillings in mony being the remainder of a bill on file for a greater Summe. Jn^o Dafforn appeared in the office march. 16. 1676/7. & acknowledged full Satisfaction.

Order about CHEENY's provition

Jn answer to the petition & complaint of Margaret Cheeny widdow: The Court Orders that Thomas Cheeny her Son pay unto his s^d Mother Five pounds in mony every quarter of the yeare, yearly for the improvement of the Estate left by his Father & give her good assurance of her living peaceably with him, otherwise that hee leave the house; the Estate being judged to bee worth twenty five pound in mony per annum.

Auditt

The Court appoints m^r Anthony Stoddard & m^r John Joyliffe to audit the acco^{ts} of Edw^d Tyng Esq^r of debt from Colonel Daniel Searle & to make return to this Court.

BOWERS his Estate Setled

For a division of the Estate of the late John Bowers Senio^r of Meadfeild dec^d hee having four Children his Son being married & provided for, the Inventory of his Estate amounting to two hundred thirty five pounds twelve Shillings The Court settles upon his

widdow Mary Bowers the thirds of all the Lands left by her s^d husband during her life, & the other two thirds of the Lands are Setled upon the three daughters of the s^d Bowers & theire heires for ever in equall proportions, and after the decease of theire mother to enjoy the third assigned to her, and the widdow to enjoy the whole movable Estate to bee at her dispose as Shee shall see meete. [410]

BOWERS his Estate Setled

For a division of the Estate of the late John Bowers junio^r of Meadfeild dec^d hee leaving behinde him onely one Childe being a Son: The Court Settles the whole Estate of movables according to Inventory upon Sarah his Relict to bee at her dispose & the thirds of the land in his improuement in his life time being bestowed upon him by his Father is Setled upon Mary the Relict of John Bowers Senio^r during her life, the other two thirds of the lands is confirmed upon the Childe left by s^d Jn^o Bowers junio^r & his heires for ever to bee improved for his maintenance by his mother till hee bee of yeares to choose a guardian, & the third assigned to the Grandmother is Setled upon the Childe left by John Bowers junio^r & his heires for ever after his grandmothers decease.

MEARES his Guardians

Vpon request of John Meares Son of John Meares of Boston sometime since dec^d The Court appoints Deacon Robert Sanderson & his uncle James Meares to bee his Guardians to looke after what Estate belongs to him.

WADSWORTH his Estate Setled

For a division & Setlement of the Estate of the late Captⁿ Samuel Wadsworth of Milton dec^d amounting according to Inventory to twelve hundred pounds cleere Estate: The Court Settles upon Abigail his Relict the Summe of three hundred pounds to bee paid out of the Estate to bee at her dispose & the remainder to bee distributed amongst the eight Children left by s^d Wadsworth as followeth. To Recompence his eldest Son the summe of two hundred pounds, and to Ebenezer Christopher, Timothy, Joseph, Benjamin, Abigail & Jn^o Wadsworth the Summe of one hundred pounds apeice & in case

of the death of any of the s^d Children before they come of age to enjoy theire Estate, the portion assigned unto him so dying, to bee equally distributed amongst them that Survive the Estate to bee set out to the Sons at twenty one yeares of age to the daughter at Eighteen yeares.

Boston under a penalty

The highway by Thomas Edwards's in Boston being presented as insufficient & not passible after a raine: The Court orders the Select men to see it bee amended between this & the next Court of this County under the penalty of five pounds.

ROBERTS admonish't

Abigail Roberts presented for excess in her apparrell & living from under Govern^t Severall of the neighborhood appearing & witnessing that Shee lived in Service & had reformed in her apparrell: The Court admonish't her, ordered her to pay fees of Court & discharged her.

BARTHOLMEW dismis't

William Bartholmew presented for concealing curseing The Court received his answer & dismis't him.

HILL & WHITE presented

Tho^s Hill & Jsaac White being presented for haunting of alehouses & mispending theire time & Estate: The presentm^t not being proved fell. [411]

Naponsett bridge ordered to bee repaired

The Bridge over Naponset River being presented as insufficient The County Treasuro^r is ordered to see it bee repaired by the next Court of this County.

WRIGHT Sentenced

Alice Wright being charged by her Master Daniel Turill junio^r for stealing from him severall parcells of mony & goods as by her own confession & testimony produced did appeare, Shee having laid out a considerable Summe of mony & bought herselfe costly apparrell

unbeseeming her ranke, which were found with her and forgeing many pernicious lyes & Letters, the cloathing & other things found with her amounting to Fourteen pounds Four Shillings three pence by apprizement: The Court Sentenced her to bee whip't severely with thirty Stripes & to pay unto her Ma^r Turill treble damages according to Law & to pay Fees of Court standing committed etc.

WOODIE his Estate Settled

The Court Settles the Estate left by the late Richard Woodie of Boston dec^d who dyed intestate upon Sarah his Relict for her own maintenance during her life and bringing up of her Children and at her decease to bee distributed amongst his Children.

SHARP his Estate Settled

For the Setlement of the Estate of the late John Sharp of Muddy River dec^d who dyed intestate The Court assigns to Martha the Relict of s^d Sharp one hundred pounds to bee paid out of the s^d Estate and then the remainder to bee divided into Six parts among the five Children left by s^d Sharp; the eldest Son to have two parts thereof as his double portion and the other four Children to have single portions; and in case of death of any of the s^d Children before they come of age to inherit theire Estate i. e. the Sons twenty one & the daughters eighteen yeares, then the portion of him or her so dying to bee equally divided among the Survivo^{rs} the widdow to have the improvem^t of the whole Estate for the bringing up of the Children & to pay them out theire portions as they come of age.

ALCOCKS Guardian

Palsgrave Alcock appeared in Court & made choise of Captⁿ John Hull to bee his guardian which hee accepted; likewise to bee guardian to Elisabeth Alcock; The Court approving thereof.

MINOT his Guardian

Stephen Minot Son of the late John Minot of Dorchester appearing in Court made choise of Henry Leadbetter of Dorchester to bee his guardian; which the Court approved of, understanding the s^d Leadbetter was willing to accept thereof.

MATSON presented

Thomas Matson prison keeper being presented for not keeping in his custody Quakers or persons taken at a Quakers meeting according to that Law page. 34. Sectⁿ 4.¹ committed to him by James Hill Constable by a warrant from the Deputy Gov^r The Court having heard what hee alleaged for him & produceing an order from the Deputy Gov^r to release them upon bond dismis't the s^d Keeper. [412]

MEADORE Fined 40^s

John Meadore bound over to this Court to answer the complaint of Samuel Allice for nayling up his Shop windows & Saying who durs't undoe them: The Court having heard and considered what was presented in the case, do Sentence him to pay Forty Shillings in mony fine to the County charges of prosecution & Fees of Court standing committed &c.

MORRICE Sentenc^d

Ellin Morrice wife of Dorman Morrice being charged by Daniel Turell junio^r for receiving of Stoln. goods from alic Wright Servant unto the s^d Turill & concealing of them, Shee being Sent for by the Court, appeared & owned that the s^d Wright kep't her box of Linnen at her house, and that Shee had at severall times received peices of Meate & bread from the s^d Alice The Court Sentenced her to bee whip't with ten Stripes.

STRETTON & KEMBLE admonish't

Bartholomew Stretton & Thomas Kemble being complained of for frameing & writeing of severall Letters for Alice Wright being full of pernicious Lies & Slanders: Stretton appeared and owned that hee did write those Letters produced in Court; but s^d it was by the s^d Alice her dictates: Kemble also appeared and owned that hee wrote one letter then produced but said it was from a Coppie the s^d Alice brought him The Court admonish't them and ordered them to pay Fees of Court.

KINGMAN Fined & bound to the behavio^r

Edward Kingman presented for Idleness, neglect of his calling and given to excessive tipling and drunkenness; which hee owned in

¹ Supplementary law, October, 1675. See Whitmore's Laws (1672-86), p. 234.

Court & promised reformation, it being the Second conviction The Court Sentenced him to pay twenty Shillings in mony as a fine to the County and to give in ten pound bond with Sureties for his good behavio^r during the pleasure of this Court and to pay fees of Court standing committ^d etc. and to pay the Constable three Shillings for bringing of him down accordingly the s^d Edward Kingman and John Kingman bound themselves jointly and Severally in the Summe of ten pounds in mony unto the Treas^r for the County of Suffolke on condition the s^d Edward Kingman shalbee of good behavio^r during the pleasure of this Court.

GILLAM Sentenc^d

Joseph Gillam being complained of for Striking & woundeing of John Balley Servant to Richard Wooddee, whereby hee hath been disabled for doing his Master any Service about a month: The Court having heard and considered the pleas and Evidences in the case, do Sentence the s^d Gillam to pay twenty Shillings in mony as a fine to the County and to pay the Chyrurgion for his cure, to pay the s^d John Balley twenty Shillings in mony and to his Master Richard Wooddee eight Shillings in mony per weeke for loss of his time from the time of his being wounded untill hee able to worke again and to pay Fees of Court and charges of prosecution Eleven Shillings Six pence.

The Court adjourned till munday the. 6th of nov^r 1676. at one a clock. [413]

Nov^r 6th 1676.@

The Court met according to Adjournm^t

Present

JN^o LEVERETT Esq^r Gov^r
SIMON BRADSTREET Esq^r

EDWARD TYNG
THOMAS CLARKE
JOSEPH DUDLEY } Esq^{rs}

[MARY and HUGH DRURY Sentenced]

Mary Drury being presented by the Grandjury for leaving the fellowship of her husband, The Court sent for her & likewise for Hugh Drury her husband; Shee owned the presentm^t The Court

having considered of what they alleaged one against the other, do Sentence them to pay Fifty Shillings apeice in mony as a fine to the County, and each of them to give in bond with Sureties of thirty pounds apeice for their good behavio^r especially one toward another untill the next Court of Assistants and then to appeare and to pay Fees of Court standing committed &^a

[See Records of Court of Assistants, i. 91, where the Drury's were enjoined "to live together . . . as man & wife"; and Mary's presentment in the session of 31 July, 1677, for inability to do so, p. 837, below.]

Committee for JN^o PAINES Estate

m^r Anthony Stoddard m^r John Joyliffe & m^r William Tailor are appointed Commission^{rs} to receive the claimes of the Credito^{rs} to the Estate of m^r John Paine; The Credito^{rs} to give in their claimes by January Court next, the s^d Commission^{rs} to make return to that Court.

The Court adjourned to Nov^r 13^o 1676.

Novemb^r 13^o 1676.@

The Court met according to adjournment.

Present

JOHN LEVERETT Esq^r Gov^r
SIMON BRADSTREET

EDWARD TYNG	} Esq ^{rs}
THOMAS CLARKE	
JOSEPH DUDLEY	

[Order to JOYLIFFE]

Vpon the motion of Elisabeth Vicars late widdow of m^r Richard Price dec^d craving the benefit of the law respecting her thirds of a house & Land in Boston; which was alienated by her s^d husband Price in his life time unto m^r John Joyliffe Shee not having given up her thirds: The Court Orders m^r Joyliffe to Set out to the s^d Elisabeth her thirds of the s^d Estate; or else the Court will appoint a Committee for that end.

Committee for ATKINSON'S Estate

Cap^{tn} Thomas Clarke & m^r John Vsher are appointed and impoured by the Court, to bee Commission^{rs} for the taking in of the

claimes of the Credito^{rs} to the Estate of Theodore Atkinson junio^r dec^d the s^d Credito^{rs} to give in theire claimes to the s^d Commission^{rs} by January Court next, & the s^d Commission^{rs} to make the return to that Court.

TURNOR Clerke of the Writts

The Court appoints Ephraim Turnor to bee Clerke of the Writts for the Town of Boston during the pleasure of this Court.

Order to EVERILL

Ordered that m^r James Everill bring in what mony hee hath in his hands belonging to the Estate of the late Ephraim Pope dec^d & deliver it to the Clerke of the Court and that thereupon Joseph Belknap deliver up his bill. [414]

WILLIAMS & HAKE Sentenc^d

John Williams and Richard Hake Butchers being complained of by James Harris for abusing of him in bad language & throwing theire offel out of theire Shop into his wheelebarrow among his meate as hee was driving it through the Town for Sale: The Court admonish^t the s^d Williams & Sentenced the s^d Hake to pay Five Shillings in mony to James Harris & both to pay Fees of Court.

m^{rs} DAVENPORTS Liberty

The Court grants liberty to m^{rs} Abigail Davenport Relict of m^r John Davenport late Clerke of the Writts dec^d to imploy some meete person to take an account of all such births marriages and deaths as were not brought in to her s^d husband (by the Jnhabitants of Boston) during the time of his being in office unto this day, and to demand and receive pay for the same making a return of the same unto the Clerke of this Court.

The Court dissolved.

HERRIS to MACKCLOATHLAND

Thomas Herris personally appeared before Simon Bradstreet & Thomas Clarke Esq^{rs} assist^s Novemb^r 23^o 1676. and confessed judgement against himselfe & Estate unto Duncan Mackcloathland for twenty Seven pounds in mony according to bill on file.

as attests. Js^a Addington Cler

CREVET to OLIVER

Mordecai Crevet of Salem marrin^r personally appeared before John Leverett Esq^r Gov^r & Edw^d Tyng Esq^r assist. January. 24^o 1676/7. and confessed judgem^t ag^t himselfe and Estate unto Cap^t James Oliver for three pounds two Shillings and Six pence in mony according to account

as attests. Js^a Addington Cler [415]

At a County Court held at Boston January. 30th 1676. @

Present

JN^o LEVERETT Esq^r Gov^r
SIMON BRADSTREET Esq^r

EDW^d TYNG
THO: CLARKE
JOSEPH DUDLEY } Esq^{rs}

Grandjury Sworn

Capt^t Ri: Bracket
Jn^o Search
Jn^o Anderson
Abel Porter Sen^r
Rob^t Walker
Jn^o Maryon

Hugh Clarke
Joseph Griggs
Tho: Tileston
Tim^o Mather
Tho: Swift
Jn^o Shaw

Caleb Beale
Geo: Lane
Tho: Fuller
Edw^d Richards
Sam^{ll} Bullen

Jury of Tryalls Sworn

m^r Henry Deering
W^m Whitwell
Jn^o Mayo
Sam^{ll} Crafts

Henry Leadbetter
Jn^o Baker
James Tucker
Jn^o Bicknel

Tho: Lincoln
Tho: Metcalfe
Nathan^{ll} Gay
Jn^o Pratt

[DAVENPORT V. HALL]

Elisabeth Davenport Relict & Adm^x to the Estate of the late Captⁿ Nathaniel Davenport dec^d plaint. ag^t Richard Hall (part Owner and late Merchant of the Ship Nevis Factor) Def^t in an action of debt of two hundred and Fourteen pounds w^{ch} the s^d Hall tooke up & borrowed of the s^d Nathaniel Davenport upon the bottom of s^d Ship; which should have been paid at Jamaica in currant mony of s^d place, as may appeare by two writeings or Obligations under the hand of s^d Hall having reference one to the other with all due damages according to attachm^t Dat^d Aug^o 24^o 1676. . . . The Jury . . . found for the plaint. two hundred & Fourteen pounds mony according to bond & costs of Court twenty nine Shillings eight pence.

Execucion issued. 5^o Feb^{ry} 1676.

[DAVENPORT V. HALL]

Elisabeth Davenport Relict & Adm^x to the Estate of the late Captⁿ Nathaniel Davenport dec^d plaint. agt. Richard Hall (part Owner and late Merchant of the Ship Nevis Factor) Def^t in an action of the case for an Account with the proceeds of a parcell

of goods loaden upon s^d Ship & consigned to s^d Hall at Jamaica as may appeare by bill of Loading under the hand of Samuel Davis then Master of s^d Ship to the value of One hundred and Forty pounds ten Shillings first cost with all due damages according to attachm^t dat^d august 24^o 1676. . . . The Jury . . . found for the plaint. due upon the Sale of goods One hundred and Eighty pounds twelve Shillings Jamaica mony & costs of Court allowed.

The two abovewritten actions were tryed at the last County Court, but judgem^t not entred untill this Court according to Law.

TYNG agt. SEARLE

Edward Tyng Esq^r plaint. agt. Colonel Daniel Searle Def^t in an action of debt of three hundred & thirty pounds in mony or thereabouts due by booke with all due damages according to attachm^t dat^d October. 26^o 1676. . . . The Jury . . . found for the plaint. three hundred thirty three pounds Fourteen Shillings & eleven pence in mony & costs of Court allow^d twenty six Shillings six pence

This action was tryed the last Court but judgem^t not entred untill this Court according to law.

Execucion issued may. 19^o 1677. [416]

HARRIS agt. SANDIFORD

William Harris plaint. agt. Henry Sandiford Def^t The plaint. withdrew his action.

SQUIRE agt. HUDSON

Phillip Squire plaint. agt. Samuel Hudson Deft. in an action of the case on debt for not paying the s^d Squire the Summe of Nine pound in mony for beere sold & deliur^d the s^d Hudson by the s^d Squire this present yeare with all other due damages according to attachm^t dated nov^r 18^o 1676. . . . The Jury . . . found for the plaint. nine pounds in mony and costs of Court Sixteen Shillings eight pence

Execucion issued Jan^{ry} 31^o 1676/7

WALDRON agt. MARSHALL

Jsaac Waldron plaint. agt. Captⁿ Tho: Marshall Def^t in an action of the case for detaining & keeping from him two Cows and one heifer

without any Legall right or title to them which were taken off from his Farme sometime in October. or November. last whereby the s^d Waldron is damnified Eight pounds in Silver and all other due damages according to attachm^t dat^d January. 6th 1676. . . . The Jury . . . found for the plaintife the two Cows and heifer Sued for or Eight pounds in Silver with costs of Court: The Defend^t appealed from this judgem^t unto the next Court of Assistants and himselfe principall in Sixteen pounds and Rob^t Brimsdom & John Flood as Sureties in £.8. apeice bound themselues respectiuly . . . on condition the s^d Tho: Marshall should prosecute his appeale . . .

[This and the four subsequent cases arose out of a misunderstanding, wilful or otherwise, as to the ownership of the cattle on Bennett's Farm in Lynn, which Isaac Waldron leased. The following papers give an outline of the events.

S. F. 1569.1

To the Constables: of Boston: Rumni marsh, Lynn or of any Towne in the Massachusetts Colonie

Whereas Complainte is made by m^r Jsaac Waldron, hath Severall Cattle viz^{tt} Three Oxen, Two Cowes and two heifers taken off from his farme Called Bennets farme, These are in his Majesties name to require you in your severall precincts to Search for the said Cattle, and them findeing you are to Seize & bringe Such person or persons with whome you finde the Cattle or any of them, before authority that they may answer the Complainte of the Said Jsaac Waldron, according to Law, hereof you are not to fayle & you are to make returne what you do herein, Dated in Boston [2^d] Decemb^r 1676

John Leverett Govo^r

The Returne

Dated the 6th of December. 1676

According to this warrant J have Seized Vpon an Oxe which J found in Joel Jenkins keeping, which the Said Jenkins had taken to winter for the Said Bennet, and have Summoned the said Jenkins to appeare before your Worship

By the Constable of Maulden

John Floyd

Vera Copia attest^r Js^a Addington Cler

S. F. 1569.13

These may Serve to Lett you vnderstand that J have found all the Cattle mentioned in the warrant Except one, viz^t at Cap^t Marshalls three, att William Bassett two, and William Edmunds acknowledged to me to have another all which men J have now brought before authority and they have Severally bound themselves that the Cattle shall be forth Comeing, according to Command of authority as attests

Clement Coldome Constable

Decemb^r the 8th 1676

Vera Copia attest^r Js^a Addington Cler.

S. F. 26181

John Floyd Constable of Maulldjng his bjll of Charge Agajnst m^r Walldren for Searchjng for & Zeaseing of An Oxx in he hands of Joell Ginkins, by vertue of A Spetjall Warrant of the Hon^{ed} Gouverner Leuerett graunted out by vertue of Which ye saide Ginkens was brought before ye Worshipfull Symond Broadstreet Esqujer in which hee Spent. 3: dayes tjme — 2:s aday — — is 00-06-00

Allowed by y^e Court E R S

S. F. 1569.17

The Testimonie of John Shaw aged forty foure yeares or thereabouts Sworne Saith, that about the Twelfth of this instant January J being at the house of m^r Waldron in Boston, J did heare m^r Waldron Say, that he did Showe m^r Bennet the Cattle, & bid him to take them, and did bid his man to helpe m^r Bennet out of the Orchard with them, and these are the Cattle that are now in Controversy, that m^r Waldron hath arrested Captⁿ Marshall, Serjeant Bassett Goodman Jenkins Goodman Edmonds, as m^r Waldron did tell mee and further Saith not,

Sworn in Court January 30th 1676

as attests Js^a Addington Cler

Vera Copia attest^r Js^a Addington Cler

S. F. 1569.20

Aphra Bennet aged about Thirty five yeares testifyeth and Saith that She hath heard her father m^r Samuell Bennet Say Severall times that Benjamin Mussey & John Floyd did advise and Jncouridge and also did helpe him, to take away M^r Waldrons Cattle, from offe his farme, and that the Said Benjamin Mussey & Floyd hope him to drive them from the farme to Old Chaddock[s] and also that Benjamin Mussey told him, that the Cattle was his, and that he might do it well Enough, and that he the Said Benjamin Mussey would warrant it, furthermore M^r Samuel Bennet Said that because that Mussey was thought to be a Subtle Lawyer by others he the said Samuel Bennet thought so too, Therefore he tooke his advice and did with their assistance, as abouesaid, and further he said that Except the abouesaid Mussey & flood had Urged him to it, he would not have done it, and also without their assistance he Could not have done it, and further Saith not.

Taken vpon Oath this 29th of December 1676

before me Thomas Brattle Commiss^r

Vera Copia attest^r Js^a Addington Cler.

S. F. 1569.26

The Deposition of Benjamin Muzzy Aged forty Six yeares or thereabouts Sworne Saith, That J being at Boston about Six or Seven weeks agoe John Floyd of Maldin being present with mee, we Saw m^r Bennet who did disire vs to goe along with him to m^r Davenport, to Search the Records & to gett an attachment for his Son John Bennet, for Said m^r Bennet my Son hath a parcel of Cattle of mine, which he hath nothing to do withall & J am resolved to arrest him for them, J asked m^r Bennet if he had not given them or Sould them, or Lett them vnto his Son, & he replyed, that he had not, J told him that J did vnderstand, that m^r Waldron had hired the Cattle with the farme, he then did absolute affirme, that neither m^r Wal[dron] or his Son had any thinge to doe with them, for the

Cattle were his and he would have them, J told him that if they were his Cattle his best way in my apprehension was to goe & Speake with m^r Waldron, for Said J if he will give you leave to take the Cattle, and the Cattle be your owne, you have no neede to Sue your Son for them, & he did then intreate vs to goe along with him to M^r Waldrons house, & accordingly wee did & when we Came thither he spake to M^r Waldron about the Cattle & tould him the same Story as he had told vnto vs, about arresting his Son for his Cattle: M^r Waldron told m^r Bennet that the best Councel he Could give him was to goe over to the farme & take away the Cattle, and then lett your son Sue you for the Cattle, J replied that it may be if m^r Bennet should take away the Cattle, whether m^r Waldron were willinge or not, he Said he was willinge with all his heart, J said it may be that he would Sue m^r Bennet if he should take them away, M^r Waldron did then promise that he could not Sue anybody about the Cattle for said m^r Waldron, J shall gett by it, for J have had the vse of them all this Summer & shall Save the wintringe of them, but Said m^r Waldron when the Cattle be gone, J will Come vpon Elisha, when he Cometh from Sea, for my bargaine because his father hath fetched away the Cattle, & J will make him pay dammage & this discourse it was on a Saturday & they did appointe the next second day following both of them to Come over to the farme, & desired vs to meete them there, and accordingly they did both m^r Waldron & m^r Bennet Came to the farme, and m^r Waldron bid m^r Bennet to take *[torn]* & what else that was his, but there wanted two Oxen, which m^r Waldron sai[d] was gone in his teame, to his owne farme, and said he, J will goe & send them downe, and he tooke horse, soone after the Oxen were brought down by Goodman George, and he Said m^r Waldron ordered him to deliver them to M^r Bennet,

William De[l]low & Bryan Berreden, doth testifie to the truth of all in this paper, written, Excepting the discourse, that m^r Waldron m^r Bennet John Floyd, & Benjamen had at Boston, in the beginning of the Testimonie. which is about ten lines, We also doe testify that m^r Bennet did tell m^r Waldron, that the Iron doggs Standing by the fire were his, and did take hold of them, and m^r Waldron bid him take them away, and m^r Bennet, did take them out of the house, and these Iron doggs are the doggs, which m^r Waldron hath arrested Benjamen Muzzy for, to the Commissioners Court next in Boston

Taken vpon the Oathes of John Floyd Benjamen Muzzy William Dellow, and Bryan Berreden this 8th of Decemb^r 1676 before me

Simon Bradstreet Assist

Affirmed in Court January. 30th 167⁶ by all the within named persons, vpon former oath, as attests Js^a Addington Cler

Vera Copia attest^r Js^a Addington Cler.

Only a fragment of Marshall's Reasons of Appeal survives, in S. F. 162159.2. Waldron's Answer (S. F. 1569.10) denies that Marshall took the cattle with Waldron's consent or knowledge, and continues:

. . . And the Appealant Receiving my Cattell, after J had lost them, and possessing the[m] when the warrant was Jssued forth, and my Cattell being found in his hands, y^t was the Cause, and reason, why he was apprehended, and brought before Authority, and not by any particular Complaint J made against him, And whereas the appealant, would make it Seem a Strang Judgment, by mentioning 8^{li} in

mony, the Judgment was, J should have my Cattell againe, or else 8^{li} in money, by which the appealant may keep his 8^{li} money, and that J might have my Cattell againe, which J humbly Conceive is no other, but a Just, and honest, Judgment, against the appealant

2 J Answer Neither the Appellant, nor M^r Samuel Bennet, who Delivered my Cattell to the Appealant, had ever any Legall right or title to them, since the [torn] was borne, And that the appealant did not buy them, Legally, it appears by law page 147 (Title tolling Cattell) its there said, y^t all Cattell, bought of any person, shall be entred in a toll Book by the Clark of the writts, with their Age, Colour, and marks, at the perrill of the buyer, with the name of the Seller, and the seller shall have two vouche^s, to testifie the Seller, to be the proper owner of the Cattell Sold, So y^t the Cattell being not told, no[r] vouche^s, nor owner of the Cattell being being present, J humbly Conceive Could not be Legally Sold, for the Law will not allow one man, to pay his Debts, with anothers Cattell, Therefore J humbly Conceive, it doth appear, no other, but a Just, and honest, Judgment against the appealant

3 J Answer M^r Samuel Bennet, whom the appealant pretends sold them, never owned them, So y^t from him, needs no Conveyance to his Son, who bread the Cattell, the Appealant hath of mine. And whereas they say there was but one Witness Sworn to the deed, of Gifft for the Cattell, J Answer it was because the other Wittness was dead, therefore Could not be obtained in which Case one Wittness is Sufficient, and whereas the appealant saith, the Grant of the Cattell is Conditionall, J Answer it is absolute, in Respect to the Cattell as per deed appears, though Conditionall in Respect to y^e vtensells, therein mentioned, but in this Case it values not, because he y^t sold them, never [Owned] them, Therefore J humbly Conceive yett it appears, no other; but a Just [and] honest Judgment, against the appealant

After detailed comment on the testimony of Marshall's witnesses, Waldron proceeds:

Again J Answer J prosecuted the appealant, according to my Complaint as J Judged according to his Desert, according to the Bond, and According to the Worshipfull M^r Broadstreet his Order, y^t made the bond, for J was so fearfull of Affending authority, y^t J Would not trust to the bare Letter of the bond, but intreated the Authority aboves^d to tell me, how J was to prosecute them, his Answer was, in Civill Actions and that it was my best way so to do, and withall he told me there was but one bo[u]nd, as per bond appears, Therefore saith he, yo^w must Summond them or Attach them, or else they will not Come, by which it appears, y^t they was not looked upon, as persons guilty of any Criminal fact, So According to my order, or Command from Authority, J Attached them all, that they might Come, and Cast them all, as will appear, So y^t as yet it appears a Just and honest Judgment, As J humbly Conceive, against the Appealant

Again J Answer, that Whereas the appealant saith, y^t J should say, that M^r Sam^l Bennet would Swear any thing for a pint of Liquor, J absolutely deny it, for J never did Speak it, But this J Confess, J did say, y^t M^r Samuel Bennett, would sell anything, for a pint of Liquor, And that J suppose most of his Chapmen, that use to Deal with him, knows it to be true, if they do not, his poor Wife, and Children do.

Waldron denies that he ever sent for Mussey or Flood to come and see him and deliver any cattle to any person whatsoever.

Againe J Answer, whereas the Appealant pretends, he detaineth not my Cattell [*torn*] the law, J Answer as at first, y^t he detaineth them, and not the law, and though he preten[ds] he was bound, y^t the Cattell by him, should be forth Coming etc there was no bond drawn, Therefore he was not bound, as doth appear, So y^t J Answer, what Clement Coldam saith, may be true, But what he Swears, must be the truth, y^e whole truth, and nothing else, Therefore it plainly Appears, the Appealant detaineth my Cattell Wittness Clement Coldams Evidence upon oath the verdict of the Jury, and Judgment of the Court etc, Therefore J humbly Conceive, that it will yet Appear no other, but a Just, and honest Judgment, against the Appealant

In the Court of Assistants (Records, i. 78) the former judgment was confirmed, with 36s 8d costs.

See also the four following cases.]

WALDRON ag^t BASSETT

Jsaac Waldron plaint. ag^t William Bassett Defend^t in an action of the case for detaining & keeping from him two Oxen without any legall right or title to them w^{ch} was taken off from his Farme called Bennets Farme sometime in October. or Novemb^r last whereby the s^d Waldron is damnified Seven pounds in Silver and all other due damages according to attachm^t dat^d January. 6th 1676. . . . The Jury . . . found for the plaintife the two Oxen Sued for or in defect thereof Seven pounds in mony and costs of Court. The Def^t appealed from this judgem^t unto the next Court of Assistants and himselfe principall in Fourteen pounds & Jn^o Bateman & Jn^o Flood as Sureties in £.7. apeice bound themselves respectiuly . . . on condition the s^d W^m Basset should prosecute his appeale . . . [417]

[See the last case above. Bassett's Reasons of Appeal (S. F. 1569.12) add little to what has been said in Waldron v. Marshall; but one extract from them is interesting in connection with Marshall v. Waldron, later in this session:

. . . S^d Catle w[er]e form^ly Seized by the Constbl of Lyn. And y^e Appel^t bound to se the sd. Catle forth Comming at the Commd of Autho^ties: as appears by s^d Consb^l Coldams Certificate: dat decemb^r 8th: which was done by vertue of a speciall warrant which was obtained by sd. waldren from the Honord Gou^rn^r as if they had been taken off sd farme without his Knowledg or Consent in a felonius way. And y^e Hono^d Gou^rn^r did in open Court declare that by sd waldrens Informacion to him he vnd^rstood s^d Catle to be taken feloniously: And y^e Appel^{ts} person was App^hended & Carried before Autho^tie as a Fellow to my Great

discredit & dammag and vpon the hearing of y^e case y^e sd waldrn was bound to prosecute [agt] me at y^e last Countie Court at Boston in a Crimall case & J was bound to Answ^r. But s^d waldren did not prosecute According to s^d bound.

Waldron's Answer (S. F. 1569.11) is similar to that in the previous case. He was sustained by the Court of Assistants (Records, i. 78).]

WALDRON agt JENKINS

Jsaac Waldron plaint. ag^t Joel Jenkins Def^t in an action of the case for detaining and keeping from him one Oxe without any Legall right or title to him which was taken off from his Farme called Bennets Farme sometime in Octob^r or November. last whereby the s^d Waldron is damnified four pound in Silver and all other due damages according to attachm^t dat^d January. 6th 1676. . . . The Jury . . . found for the plaintife the Oxe Sued for or Four pound in mony & costs of Court. The Defend^t appealed from this Judgem^t unto the next Court of Assistants & himselfe principall in Eight pounds & Captⁿ Tho: Marshall & Jn^o Flood as Sureties in £.4. apeice bound themselves respectiely . . . on condition the s^d Joel Jenkins should prosecute his appeale . . .

[See the second case above. Waldron's answer to Jenkins' Reasons of Appeal is in S. F. 162160.1. Waldron was sustained in the higher court—Records of Court of Assistants, i. 78.]

WALDRON agt. EDMUNDS

Jsaac Waldron plaint. ag^t William Edmunds Def^t in an action of the case for detaining & keeping from him one heifer without any legall right or title to her which was taken off from his Farme called Bennets Farme sometime in October. or November. last, whereby the s^d Waldron is damnified Forty Shillings in Silver & all other due damages according to attachm^t dat^d Janu^{ry} 6th 1676. . . . The Jury . . . found for the plaintife the Heifer Sued for or Forty Shillings in mony & costs of Court: The Defend^t appealed from this Judgem^t unto the next Court of Assistants and himselfe principall in Four pound & Benjⁿ Muzzey & Samuel Edmunds as Sureties in Forty Shillings apeice bound themselues respectiuly . . . on condition the s^d W^m Edmunds should prosecute his appeale . . .

[Waldron's answer to Edmunds' Reasons of Appeal is in S. F. 162160.2. This case was disposed of in the same way as the three pre-

vious ones. But Waldron later heard from these four defendants. See Marshall v. Waldron later in this session, below, p. 783.]

WALDRON agt. MUZZEY

Jsaac Waldron plaint. ag^t Benjamin Muzzey Def^t in an action of the case for detaining a paire of irondoggs or andirons that were taken out of the Farme house of s^d Waldron whereby hee is damnified the value of three pound with other due damages according to attachm^t dat^d January first. 1676. . . . The Jury . . . found [418] for the plaintife the Iron doggs Sued for or Forty one Shillings mony and costs of Court: The Defend^t appealed from this judgem^t unto the next Court of Assistants and himselfe principall in Four pound & Captⁿ Tho: Marshall and Jn^o Flood as Sureties in Forty Shillings apeice bound themselves respectiely . . . on condition the s^d Benjⁿ Muzzey should prosecute his appeale . . .

[See the cases immediately preceding, especially Waldron v. Marshall. It will be remembered that Aphra Bennet, in her testimony in that case, reported that Mr. Samuel Bennet said that Muzzey "was thought to be a Subtle Lawyer." The following document (S. F. 1569.18) seems to belong particularly to this case:

William Deloway aged about fifty yeares, Testifyeth and Saith that he was present when m^r Bennet tooke a paire of Jron Doggs or andirons out of M^r Waldrons farmehouse, and he heard Benjamen Muzzy Say to m^r Bennet, Come bringe them out, & m^r Bennet desired him to helpe him Muzzy Replied he would not touch them, till they was in the kings high way. and that Mussy Said was three pole, so that Mussy paced over the way, and after Saide bringe them, and Sett them by this rock & J will rec[eive the]m [and] accordingly he did by the rock receive them of m^r Bennet, and m^r Wald[ron] not then present, & further Saith not

Sworn in Court Jan^y 30: 1676

as attests Js^a Addington Cler

Vera Copia attest^r Js^a Addington Cler.]

ROBINSON ag^t ROCK

Thomas Robinson Son to Thomas Robinson dec^d plaint. ag^t Joseph Rock Exec^r to the last will & Testament of Tho: Robinson dec^d Defend^t The plaint. withdrew his action.

ROBINSON ag^t ROCK

Thomas Robinson Son to Thomas Robinson dec^d plaint. agt. Joseph Rock Defendant. The plaintife withdrew his action.

WINTHROP agt. PAINES Estate

Wait-still Winthrop one of the Exec^{rs} of the last will of John Winthrop Esq^r dec^d in behalfe of himselfe and the rest of the Exec^{rs} plaint. ag^t the Estate late of John Paine Dec^d The plaint. in failure of a Defend^t and of giving legall Summons was nonSuted.

FARNUM ag^t SCARLETT

John Farnum Senio^r Miller plaint. ag^t John Scarlett Exec^r to the last will of Cap^{tn} Samuel Scarlett Def^t The plaint. withdrew his action.

WILLIAMS agt. WOODBRIDGE

Nathanael Williams of Boston assigne of Cap^t W^m Gerrish of Newberry plaint. ag^t Thomas Woodbridge Defend^t in an action of the case for withholding the summe of Five hundred pounds in mony, it being the Forfiture of an Obligation under his hand & Seale bearing date the .7th of Septemb^r 1676. by his not observing & performing the award of the Honord John Leverett Esq^r Thomas Danforth & William Stoughton Esq^{rs} Capt^a Nathanael Saltonstall & m^r John Hubbard under theire hands and Seales bearing date the .30th of Septemb^r 1676. according to the condition of the s^d Obligation, being Arbitra^{rs} by them mutually and indifferently chosen with all other due damages according to attachm^t dat^d January 16^o 1676. . . . The Jury . . . found for the plaintife Five hundred pounds in mony the Forfiture of the bond Sued & costs of Court. The Defend^t appealed from this judgem^t unto the next Court of Assistants & himselfe principall in one thousand pounds and Daniel Boarman & Jn^o How Sureties in £.500. apeice bound themselves respectiuely . . . on condition the s^d Tho: Woodbridge should [419] prosecute his appeale . . .

[The award of the arbitrators (S. F. 1554.1) was for Woodbridge to pay to Gerrish 186/ 17s 3d within thirty days or forfeit 50l extra. A copy of the bond of arbitration, for 500l, is in S. F. 1554.3. The decision seems to have turned on numerous technical considerations, to judge from the number of attachments, summonses, etc., that are among the papers, and from the following depositions.

S. F. 1554.4

The Deposition of Stephen Swett and Mary Parker who testifyeth on oath, that Marshal Skerry Came to m^r Thomas Woodbridges house on Saturday last, which was on the Twentieth day of January Jnstant and after a little while m^r

Woodbridg gave the Marshal, a dram of rum and asked him whether he Came for him. he answered, yes, So m^r Dudley Broadstreet asked the marshal, whether or no, that was a ticket in his hand, Soe he gave it to m^r Broadstreet, and he looked over it. but the Marshal did not reade it to m^r Woodbridg, neither did the Marshall say he did arrest m^r Woodbridg, but m^r Woodbridg Immediatly went vp in the Chamber and Locked himselfe vp in the Chamber & kept Close all that day, Soe that we doe affirme that the Marshall did not arrest him that day, we being in the aboves^d Woodbridges Company, all day, further we Testifye that afterward the Marshall Sought to finde him to arrest him, but Could not finde him in Newbury for he went out of towne

Jan 25 1676

Sworne the 27: 11th m^o 1676 before me
Samuel Dalton Commiss^r

S. F. 1554.7

J Joseph Pike of Newberry Constable, doe hereby testife and affirme that before Salem Court which was in June last, J did arrest m^r Thomas Woodbridges person, his house Shop & Some goods in it by virtue of a warrant from Captaine Gerrish, and to my knowlidge the aboues^d Woodbridg was neuer Cleared by mee to this very day, but yet stand prisoner on the Cap^{ts} account, neither would the Cap^t giue leave to mee the Subscriber to release him the aboues^d Woodbridges person or Estate, but on that account J haue keep the key of the aboues^d Woodbridges Shop to this very day, further J doe Testifye: that once m^r Tho. Woodbrid[ge] was Carried to prison by mee on the account of Cap^t Gerrish before Jpswich Court in march Last, and farther J say not

26 January 1676

By mee Joseph Pike Constable

. . . true Coppie . . . Js^a Addington Cler.

The nature of Woodbridge's Reasons of Appeal, which have not been preserved, is indicated by Williams's answer thereto (S. F. 26681):

Nath^l Williams Assignee of Capt. W^m Gerrish his Answer to Tho: Woodbridg his Reasons of Appeal

Although the Plantiffe, in his Prologue to his pretended Reasons would Speciously intimate, that he doth not delight in Contention; yet J am Confident he Can not Easily induce Such as know him, to beleive hee Speakes true, unlesse his words & actions held better Correspondency one with: the other J doubt not but the Court & Country will will Evidently See his Fallaciousnesse, Jf wee trase him in his supposed following Reasons: Wherein First he pretends the Bond Sued, obliging him to y^e Award, was obtained [from] him by force, or Dures. which pretence or plea (although his great measure of Confidence doth usually Carry him beyond what modest men are ashamed to owne) yet I doubt not but the mention thereof will raise a blush in those y^t are his freinds; when there are Soe many wittnesses, besides his owne hand & Seal, to testify against him; y^t it was his owne Voluntary Choice & Submission; & did not in the Least proceed, from any motion or Arg^t from Capt. Gerrish but was first Spoaken of by his Freinds in open Court, & [the sd] C[apt.] by th[em &] others persuaded [did] Condescend thereunto; whence it [torn] plainly Evident, y^t [his] Bond was not Extracted from

him by any [Waye of] Violence, imprisonment, thretning, or any kinde of forcible Compulsion called Dures nor did he acco^t it Soe at the time of the Arbitration, nor make any plea in that kinde, but acknowledg[ed] himselfe bound by it, when the Actions were withdrawne, & the Efficacy of the Attach^t by which he pretends himselfe a prisoner was wholly ceased But had Woodbridg his Bond bin a fraudulent Conveyance of an Estate to the s^d Capt. for his Security, (as y^e [Pltf] by his first Reason thought it was) no doubt but this Hond Court would have graunted him the priviledg of the Law.

As to his 2^d humble Conception; it proceeds from the weaknesse of his Judgment & apprehension (that no bond of Attribution can be assigned, nor no President given for Such a thing) Why [torn] did y^e s^d Woodbridg covenant wth Capt. Gerrish & his Assignes [neither] need we give a President thereof; we have a Law, which is of farr more force then Presidents, Lawbooke page (10) title Bills: w^{ch} Saith, that all debts, due upon Bill or other Specialty shall be as good to the Assignee as to the Originall Creditor, As to his Citing the Law against Assigning of Judgments, it is farr wide of our purpose, for there is no Judgement nor award Assigned, it is only the Assignment of a bond made to the Cap^t. & his assignes; & by our processe, its the assigned Bond or Specialty y^t is sued for, according to the afore recited Law. had the money, graunted to Cap^t Gerrish by y^e Award, been paid according to time, there had ben no Assignment of the Bond, nor any need of itt. Neither is there any award Assigned, nor any money demanded there-upon, but the bond is only Assigned & that only Sued. & no incivility or Injury offered by the Defd^t to make his Demaund by Attachment, of one who would not pay without. Although Awards are Judg^{ts} yet they are not Judgements of Court on which Execution may be graunted.

3^{ly} Jn his third preposterous Argument, hee verry much Contradicts himselfe in Saying the Capt. can not have any priviledg or benefitt by his Bond or Assignement, though of Validity, he being the first breaker thereof; As if the Capt. were capable of Violating Woodbridg his bond. Capiat qui Capere potest. W^{ch} obligation he Saith ariseth meerly from the observation of Conditions; Cujus Contrarium verum est; for the not performing of the Conditions is that which makes the obligation bindeing. And whereas he Saith Capt. Gerrish doth not stand to the Award it plainly appeares otherwise, by his accounting of it Valid & bindeing, and assigning the bond becoming due to him, by Woodbridg his nonperformance thereof; Neither did the Capt. [use] any unjust molestation to the Plantiffe, by Arresting of him [befor] the time of payment: as i[torn] n[eed] [we]re might, by the Co[m]par[ing] of the Dates of the A[torn] of the Attach^t, & of the marshalls Returne thereof appeare: [torn] were it soe that the Capt had broaken his bond, it were nothing to the Defend^t nor to this Case

The Appellant seemes to be grossley Jgnorant of the Law of practices of Courts, in pretending that, as a ground of his appeall the giving the whole forfeiture & Costs of Court, which is almost an Everydayes practice. And as to his last poor & Lame refuge fondly presuming this Action not tryable in this Court, the due pereuall & Consideration of the Lawes Cited by himselfe, will manifestly Confute his Error therein; besides by a latter Law,¹ then those cited by him, the Juries are now to determin Cases & their Verdict to Stand as a Judgment. These answers being Considered I hope it will Evidently appeare to this Honoured Court &

¹ Supplementary Law, May, 1672, p. 201 of the 1887 reprint.

Gentlemen of the Jury that Woodbridge hath forfeited his bond, and accordingly will See just cause to finde a Confirmation of the former Verdict for him Who is

Your Honors humble Servant

Nath^l Williams

At the hearing of the appeal, the jury of the Court of Assistants (Records, i. 83) handed down a special verdict, which gave that court two alternatives. The judges decided to confirm the former judgment, but chancered the bond to 240*l* 7*s* 3*d*. and 41*s* 10*d* costs.]

WILLIAMS agt. CARVER

John Williams of Scituate plaint. ag^t Robert Carver of Boston Defend^t in an action of debt of twelue pounds in mony due by bill under his hand bearing date the. 22^d of February in the year. 1675. with all other due damages according to attachm^t dat^d January. 22^d 1676. . . . The Jury . . . found for the plaintife twelue pounds mony and costs of Court allow^d thirty three Shillings two pence.

WILLIAMS agt. CARVER

John Williams of Scituate plaint. ag^t Robert Carver of Boston Defend^t in an action of the case for that the s^d Carver hath not delivered to the s^d Williams a Shallop named the John & Daniel with all such Furniture as hee received with her according to his receipt & obligation under his hand to doe bearing date the .27th of February 1675. which is to the plaintif's damage about Forty pound and all other due damages according to attachm^t dat^d January. 22^d 1676. . . . The Jury . . . found for the plaintife his Shallop with all such Furniture as the Defend^t received with her according to his receipt & obligation to bee delivered within two months next following and in default thereof to pay Forty pounds & costs of Court allow^d Fifty Six Shillings eight pence.

OUGHTRED ag^t COLLACOTT

Charles Oughtred Attourney to m^r Tho: Thacher Sen^r & Margaret his wife plaint. ag^t Rich^d Collacot Defend^t The plaint. withdrew his action.

SEDGWICK ag^t ROCK

Robert Sedgewick plaint. ag^t Joseph Rock Defend^t in an action of the case for defameing the s^d Sedgwick and his wife by declaring

them at the County Court held at Charlestown in open Court to have taken a false Oath to the great damage of the plaint. & all other due damages according to attachm^t dat^d January first. 1676. . . . The Jury . . . found for the plaintife One hundred pounds in mony in Six months or that the Def^t make and acknowledgem^t in open Court of his falsely accusing s^d Sedgewick and his wife of perjury, to the Satisfaction of the Court within .24. houres when the Court is full & pay costs of Court twenty three Shillings 4^d [420]

MEADER &^a agt. MARTIN

John Meader & William Tomlins plaint. ag^t Richard Martin Defend^t in an action of the case for not paying to them or either of them the Summe of Fifteen pound in mony & Fifteen pound in English goods at mony price according to agreement under the hand & Seale of s^d Martin bearing date the. 9th of October: 1675. and all other due damages according to attachm^t dat^d x^{br} 23^o 1676. . . . The Jury . . . found for the plaintifes Four pound mony and four pound goods at mony price & costs of Court; allowed twenty Seven Shillings four pence.

MEADER agt. MARTIN

John Meader plaint. ag^t Richard Martin Defend^t in an action of the case for withholding a debt of Four pound Sixteen Shillings & one penny in mony due for Carpenters and Boatswain's store of the Ship whereof s^d Martin is now master as appeares by receipt under the hand of Robert Sweet and all other due damages according to attachm^t dat^d x^{br} 23^o 1676. . . . The Jury . . . found for the plaintife Four pound Sixteen Shillings one penny one halfe mony and the other halfe goods at mony price and costs of Court twenty one Shilling eight pence allow^d

PHILLIPS ag^t LONG

William Phillips Senior plaintife ag^t Mary Long widow and John Long Vintner or either of them, Executo^{rs} of the last will of Robert Long dec^d Defend^t The plaint. was non Suted in failure of process & costs granted the Defend^{ts} twelve Shillings four pence.

Execution issued 4^o 7^{br} 1677.

JOHNSON ag^t CURTIS

Francis Johnson plaint. ag^t Joseph Curtis Def^t The plaint. was nonSuted in failure of process

ALLEN agt. EMMONS

Bozoon Allen plaint. ag^t Obadiah Emmons of Boston Cordwinder Defend^t in an action of the case for detaining in his hands and refusing to give quiet and peaceable possession unto the s^d Allen of a house & Land scituate and being in Boston neere the draw-bridge, w^{ch} hee is obliged to do by deed of Sale or mortgage under his hand & Seale bearing date the. 21. day of January 1675. the s^d house and land being forfeited unto him the s^d Allen as wilbee made appeare by the s^d deed with all due damages according to attachm^t dat^d January .22^d 1676. . . . [421] The Jury . . . found for the plaintife possession of the house & Land Sued for according to deed & costs of Court.

STOUGHTON &^a agt. GILBERT

William Stoughton Esq^r & W^m Brinsmead or either of them, they being both Executo^{rs} to the last will & Testam^t of m^{rs} Justin Patten Relict of m^r Nathanael Patten late of Dorchester in New-England plaint^s ag^t John Gilbert of Boston Tanner Defend^t in an action of the case for refusing to give possession of a certain house & Land in Boston according to the tenor of a mortgage made by the s^d Gilbert unto m^r Nathanael Patten afores^d bearing date the .16th day of March .1670, the s^d house & Land being part of the Estate Setled upon the s^d m^{rs} Justin Patten by the act & order of the Honord County Court of Suffolke: together with interest after the rate of eight per Cent. ever since the date of the s^d mortgage to this time and all due damages according to attachm^t dated January .25^o 1676. . . . The Jury . . . found for the plaintif^s possession of the house & Land Sued for according to deed & costs of Court allowed thirty one Shillings.

Execucion issued Feb^{ry} 5^o 1676.

POPE ag^t BRADLY

William Pope plaint. ag^t Richard Bradley Defend^t in an action of debt of Eleuen pound ten Shillings in mony due by booke with all other due damages according to attachm^t dat^d January. 10th 1676.

. . . The Jury . . . found for the plaintife Eleven pounds ten Shillings mony & costs of Court allow^d twenty .5. Shillings 10^d

Execucion issued Feb^{ry} .2^d 1676.

GREEN agt. COX

William Green assigne of John Watts plaint. ag^t John Cox of Boston Defend^t in an action of the case for non payment of three pound in mony due by bill under the hand of s^d Cox dat^d the. 12th day of this instant x^{br} and assigned the same day unto said Green by afores^d Watts with other due damages according to attachm^t dat^d x^{br} 26^o 1676. . . . The Jury . . . found for the plaintife three pounds mony & costs of Court allow^d twenty one Shilling four pence.

Execucion issued Feb^{ry} 15^o 1676. [422]

GOULDING ag^t STANFORD

Peter Goulding plaint. ag^t Robert Stanford Defend^t in an action of the case for not paying him four pound ten Shillings or thereabouts taken from him by Execution granted upon a judgem^t against the s^d Goulding obtained by John Nash as plaint. ag^t him the s^d Goulding as Surety of the s^d Stanford at a Commission^{rs} Court held at Boston on the. 16th day of May. 1671. & all other due damages according to attachm^t dat^d 23. 9^{br} 1676. . . . The Jury . . . found for the plaintife Six pound & costs of Court

WOODCOCK agt. SUTTON

William Woodcock of Hingham plaint. ag^t John Sutton of Scituate Defend^t in an action of the case to the value of five pounds for the s^d Sutton the two Summers last past cutting & carrying away the s^d Woodcocks grass off two parcells of his Salt Marsh at a place called Connihasset lying on the Southward side of the River next Scituate, one of the s^d parcells the s^d Woodcock purchased of Jonas Austin & the other parcell granted him by the Town of Hingham & setting up new stakes for Land markes in the s^d Marsh, which was purchased of Jonas Austin which make the title of the s^d Woodcocks Marsh Litigious, with all due damages according to attachm^t dat^d Octob^r 12^o 1676. . . . The Jury . . . found for the Defend^t costs of Court allow^d Fourty four Shillings two pence.

LIDGETT ag^t FOOTE

Charles Lidgett plaint. ag^t John Foote Defend^t in an action of the case for not giving Security for the payment of a bill of Exchange drawn upon the Hono^r^{ble} S^r Jn^o Frederick S^r Nathanael & m^r Joseph Hern merchants in London for the value of One hundred pound Sterling mony bearing date October. 12th 1676. & all other due damages according to attachm^t dat^d January. 25^o 1676. . . . The Jury . . . found for the Defend^t costs of Court, allow^d Six Shillings ten pence.

EVANS agt. BOARMAN

Agnes Evans Administratrix of William Evans dec^d plaint. ag^t Daniel Boarman Defend^t in an action of debt of One hundred pounds due by bill dated the 20th day of Decemb^r ann^o Dm. 1665. & all just damages according to attachm^t dat^d x^{br} first. 1676. [423]. . . . The Jury . . . found for the Defend^t costs of Court allowed twenty five Shillings & eight pence.

Execucion issued 20th Feb^r 1676/7.

SHELLEY agt. DEERING &^a

Sarah Shelley plaint. ag^t Henry Deering (who married wth Elisabeth the Relict and administratrix to the Estate of the late Theodore Atkinson jun^r dec^d) and Samuel Shrimpton Adm^r to the s^d Estate; as also Anne Sandys Relict & administratrix to the Estate of the late John Sandys dec^d them or either of them Defend^{ts} in an action of the case for withholding the Summe of Fifty pounds in mony being the Forfiture of an obligation under the hands & Seales of the s^d Atkinson & Sandys bearing date Febru^{ry} 27. 1674/5. wherein they are jointly & severally bound in the Summe afores^d with all due damages according to attachm^t dat^d Janu^{ry} 22^d 1676. . . . The Jury . . . found for the plaint. the forfiture of the bond & costs of Court. The Magistrates on request of the Defend^t chancered this Forfiture to twenty Six pound Seven Shillings mony & costs of Court allow^d thirty Five Shillings and four pence.

SAFFIN ag^t JESSON

John Saffin plaint. ag^t Jacob Jesson Defend^t in an action of debt for that the s^d Jacob Jesson refuseth to make payment of the Summe

of thirteen pounds in mony due unto the s^d Saffin for the rent of his warehouse as by the Lease thereof bearing date the .12th day of October .1675. with an accompt & other testimony may appeare and all other due damages according to attachm^t dat^d January .16th 1676. Objection being made of two actions in the process the plaint. declared hee held to that of the lease: after which the Evidences in the case produced being read and committed to the Jury which remain on file with the Records of this Court: The Jury brought in theire Verdict, they found for the plaintife thirteen pounds according to Lease & costs of Court allow^d twenty nine Shillings and ten pence.

Execucion issued 13^o Feb^{ry} 1676.

[The serving of this execution involved two persons in serious difficulties. See Walley v. Waite, in the April Session, below, p. 802.]

LILLEY ag^t NONAN

Edw^d Lilley plaint. ag^t Daniel Nonan Def^t The plaint. was non Suted in failure of process not giving Summons and costs granted the Def^t six Shillings 4^d

Execucion issued Feb^{ry} 26. 1676/7. @

TURNOR agt. MATSON

Ephraim Turnor plaint. ag^t Thomas Matson prisonkeeper Defend^t The plaint. withdrew his action.

NAYLOR ag^t WHEELEWRIGHT

Edw^d Naylor plaint. agt. Samuel Wheelwright Defend^t This action is continued untill the next County Court. [424]

YARDLEY agt. BODEN

John Yardley plaint. agt. John Boden Bricklayer Def^t in an action of the case for not responding the damage that s^d Yardley hath Sustained as hee is master of the Katch Johns Adventure by s^d Boden his remisness & neglect of his duty by not doing his worke according to his trust & promiss in building of a hearth on board the s^d Katch whereby the plaintife by fire is damnified about Fifteen pound in mony with all due damages according to attachm^t dat^d Jan^{ry} 3^d 1676. . . . The Jury . . . found for the Defend^t costs of Court.

HUDSON agt. DANIEL

Captⁿ William Hudson plaint. ag^t John Daniel of Milton Defend^t in an action of the case for the s^d Daniel his breach of the covenant Indenture or lease bearing date .27 of march. 1675. by his illegall or unnecessary deserting the s^d Farme mentioned in the aboves^d Covenant or Lease and leaving the houseing utensils house hold Stuffe cattle & Stock that were unto him Leased by the s^d Hudson belonging unto the s^d Farme as per Inventory & otherwaies shall appeare unto the liberty of any person to steale or take them illegally away or by fire spoyle & ruin them which is done or otherwaies detained from the plaintife by the s^d Daniel or by his defect in forsaking the s^d Farme hee taking no care nor effectually indeavouring or using any meanes for the aboves^d goods and stock, nor having made Satisfaction neither for houseing Stock or rent thereof lost; whereby the plaintife is damnified at the least to the value of Four hundred pounds in mony & other due damages according to attachm^t dat^d 9^{br} 3^d 1676. . . . The Jury . . . found for the Defend^t costs of Court, allow^d ten Shillings & ten pence.

Execution issued March. 5th 1676/7.

BELCHER ag^t Brantery Select men

Joseph Belcher plaint. on replevin ag^t the Select men of Brantery Defend^{ts} A question in this case being depending in the Generall Court for resolution: The Court dismis't the action.

CLARKE agt. YALE

Majo^r Thomas Clarke plaint. ag^t David Yale Defend^t This action was continued untill the next County Court.

Grandjury dismis't

The Grandjury brought in their bill of presentments 30th of January. 1676. & were dismissed for this Court. [425]

HENCHMANS Guardian

Hezekiah Henchman aged .19. yeares & upwards Nathanael Henchman aged .15. yeares & upwards appeared in Court and made choise of their Father Cap^t Daniel Henchman to bee their guardian which

hee accepted & the Court allow^d of: And the Court appointed the s^d Cap^t Henchman to bee guardian unto his daughter Susanna being .9. yeares of age and upward: relating unto some legacies bequeathed unto them by the last will & Testament of theire late Grand-Father Hezekiah Woodward late of Uxbridge in the County of Midd^x within the Realm of England Gent. dat^d 22^d Feb^r 1676

PROUTT to Vsher

Timothy Proutt Sen^r personally appeared in Court & confessed judgement ag^t himselfe & Estate unto Elisabeth Vsher, Hezekiah Vsher & John Vsher Exec^{rs} of the last will of m^r Hezekiah Vsher dec^d for thirty Six pound Fifteen Shillings ten pence in mony being so much hee ingaged to pay on acco^t of m^r Oliver Purchis

PURCHIS to PROUTT

Oliver Purchis personally appeared in Court & confessed judgem^t against himselfe & Estate unto Timothy Proutt Senio^r for thirty Six pounds Fifteen Shillings and ten pence in mony.

Execucion issued pr^o Feb^ry 1676.

HUDSON to PAIGE

Samuel Hudson personally appeared in Court & confessed judgement ag^t his Estate & person unto Nicholas Paige for nineteen pounds five Shillings six pence to bee paid in mony.

Execucion issued 29^o May. 1677.

SANDYS to BALSTON

Anne Sandys administratrix to the Estate of her late husband John Sandys dec^d personally appeared in Court & confessed judgement ag^t her Estate and person unto Jonathan Balston for Sixteen pounds five Shillings in mony in full of all accounts.

PURCHIS to LIDGETT

Oliver purchis personally appeared in Court and confessed judgem^t ag^t his Estate & person unto Elisabeth lidgett, Executrix of the last will of m^r Peter Lidgett dec^d for twenty two pounds and eight pence in mony due by bill on file.

Freemen Sworn

Caleb Beale Joseph Bate & George Lane all of Hingham tooke the Oath of freedom of this Colony.

MASON his Estate Setled

For a Setlement of the Estate of the late Thomas Mason of Meadfeild dec^d the Inventory of his Estate amounting to two hundred and twenty pounds, hee leaving Four Children: The Court assignes unto his eldest Son being now of age Forty pounds out of s^d Estate to bee paid unto him by Margery his mother as Shee can [426] and unto the rest of the Children twenty pounds apeice to bee paid out of s^d Estate unto them as they attain theire respective ages of twenty one yeares: The Court settles the remainder of the Estate upon Margery the Relict of s^d Thomas Mason, and at her decease (in case Shee dye a widdow) to bee divided & set out to such of her Children as shall best deserve from her.

HUDSON to ROCK

Samuel Hudson personally appeared in Court & confessed judgement ag^t his Estate & person unto Joseph Rock for ten pound Eleven Shillings Six pence in mony.

Execution issued. may. 28^o 1677.@

TOWER his Estate Setled

For a Setlement of the Estate of the late Jeremiah Towers of Hingham dec^d The Court assignes unto the eldest Son of s^d Towers Forty Shillings to bee paid out of s^d Estate and unto the rest of the Children twenty Shillings apeice to bee paid unto them as they attain theire respective ages & confirme the rest of the Estate upon Elisabeth his Relict.

DAVID an Indian Sentenc^d

The Court Sentenceth David an Indian to pay unto m^r Nicholas Paige by Service the Summe of twelue pounds nineteen Shillings in mony according to law, being treble damages for his stealing sundry goods from the s^d Paige and running away from onboard his Vessell with his Boate after hee was Shipped.

PURCHIS to CLARKE

Oliver Purchis personally appeared in Court & confessed judgement ag^t his Estate & person unto Major Thomas Clarke for twenty one pounds to bee paid in mony according to account.

ROGERS his Estate Setled

For a Setlement of the Estate of the late William Rogers of Boston dec^d intestate who left onely one Childe being a Son: The Court assigns to & confirms upon Margaret his Relict one halfe of the whole Estate according to InVENTORY: and the other halfe is Setled & confirmed upon his Son William to bee paid unto him at the age of twenty one yeares: The Childe to bee brought up by m^r William Snelling (who married with the widdow) by the improveement of his Estate untill hee bee of yeares to bee put out an apprentice; and after his being put out or the like; his Estate to bee improved for his benefit untill hee come to age.

[For subsequent litigation concerning this estate, see Fiske et al. v. Rawson, below, p. 1084.]

Weymoth Commission^{rs}

Captⁿ W^m Torrey L^t John Holbrooke & Serj^t Samuel White are appointed Commission^{rs} for the Town of Weymouth to end small causes for the yeare insuing.

Dedham Commission^{rs}

Captⁿ Daniel Fisher m^r W^m Avery & Ensigne Thomas Fuller are appointed Commission^{rs} for the Town of Dedham to end small causes for the yeare insuing.

Meadfeild Sealer

Seth Smith of Meadfeild was Sworn Sealer of weights and measures for that Town for the yeare insuing. [427]

CRESEY's presentm^t

John Cresey being presented by the Grandjury for living from his wife contrary to Law: The s^d Cresey appearing own^d that hee had a wife living in England and that hee had been absent from her severall

yeares: The Court ordered him to return unto his wife by the next oppertunity of Shipping for London under the penalty of twenty pounds according to Law.

Audit

m^r Thomas Deane and m^r James Whetcomb are appointed & commissionated to audit the accompts between Edward Naylor & Samuel Wheelewright sometime in the first weeke of April next comming & to make their return thereof unto to the County Court in april next to which the action is continued.

Audit

m^r Humphry Davie, m^r John Joyliffe & Cap^t Jn^o Richards are appointed & commissionated to audit the accompts between major Thomas Clarke & m^r David Yale and to make their return thereof unto the County Court in April next to which time the action is continued.

MEARES his Estate Setled

For a present Setlement of the Estate left by the late Samuel Meares of Boston dec^d The Court assignes unto Mary his Relict the whole movable Estate unto her and her heires for ever, and the improvement of the house and land untill the eldest Child left by s^d Meares come of age, and then a further division to bee made: And the house & land is hereby Secured for the paym^t of debts; and m^r William Adams and her other Surety for her true administracion are discharged from their bond.

JONES Fin^d 40^s

John Jones & Sarah now his wife convicted by their own confession in Court of committing Fornication before marriage: The Court Sentenc^d them both to bee whip't the s^d John with Fifteen Stripes & Sarah with ten stripes or to pay Forty Shillings in mony fine to the County & fees of Court standing committ^d &^a

TAPPIN Fined 20^s

John Tappin presented by the Grandjury for receiving a cloake which was Stol'n from him before the law was Satisfied The s^d Tappin

appearing owned hee had inadvertently so done: The Court ordered him to bring the Cloake and deliver it up to the Court being Forfeit^d according to law or to pay twenty Shillings in mony fine to the County four Shillings charge of prosecution & Fees of Court.

KING Sentenc^d

Abigail King widdow convict in Court by the oathes of Samuel Sendall and Bartholmew Threenedle of suffering great disorders and disturbances in her house to the greife and annoyance of the neighbourhood, and for entertaining of Strangers: The Court Sentenc^d her to pay five pound in mony fine to the County charges of prosecution & Fees of Court [428] and caution her for future not to entertain any lodgers in her house without approbation of the Select men or other authority according to Law under the penalty of five pound per weeke.

SKELTON Sent^a

Joseph Skelton convict in Court of Stealing meate & other things from Samuel Everett at severall times: The Court Sentenced the s^d Skelton to bee whip't with fifteen Stripes & to pay unto Samuel Everett treble damages according to Law, being Six pound twelve Shillings & to pay charges of prosecution Forty Six Shillings & fees of Court standing committ^d &^a

WILLISTON Fin^d 20^s

John Williston convict of Stealing a Syth from John Daniel valued at ten groats, & having formerly committ^d severall thefts. The Court Sentenc^d him to bee whip't with ten Stripes or to pay twenty Shillings in mony fine to the County & to pay ten Shillings in mony unto John Daniel; with charges of prosecution & fees of Court standing committ^d &^a

DIKE Sentenc^d

Daniel Dike convict by his own confession in Court of stealing from m^r William Tailer ten pounds in mony from on board m^r Herberts Sloope bound for piscataqua: The Court Sentenced him to pay unto m^r Tailer 3^{b^{1e}} damages according to law & to pay charges of prosecution & fees of Court & prison standing committ^d &^a

CROWDER Sentenc^d

Elisabeth Crowder convict by her own confession in Court of committing Fornication & having a bastard Childe: The Court Sentenced her to bee whip't with twenty stripes & to pay Fees of Court & prison standing committ^d &^a

HOLLEDAY Sentenc^d

John Holleday complained of for lying & making use of a false deed unto which his name is Subscribed to the deceiving of others, & denying of it in Court to bee his hand Subscribed thereunto, which hee had formerly own^d. The Court Sentenced him to stand in the pillory in Boston upon three severall Lecture dayes following immediately after the Lecture for the space of one hour at each time & pay charges of prosecution & Fees of Court & prison standing committ^d &^a

WILLISTON Sentenc^d

John Williston convict by his own confession in Court of stealing a cloake from John Tappin valued at twenty Shillings which is returned again unto s^d Tappin The Court Sentenc^d him to pay unto the s^d John Tappin Forty Shillings in mony being 3^{ble} damages according to law & Fees of Court standing committ^d &^a

HICKSON &^a Sentenc^d

Jeffery Jefferies & Richard Hickson complained of for breaking open John Odlines Shop from whence was taken a gunlock a head of a leading Staffe & other things [429] valued at twenty eight Shillings; the s^d Jefferies offering s^d lock to Sale, saying hee bought it of s^d Hickson; which hee owned: The Court Sentenced them to pay unto the partys who owne the things which were stoln the Summe of three pounds Seventeen Shillings in mony (the lock being returned again) which is 3^{ble} damages according to law & to pay charges of prosecution fees of Court & prison standing committ^d &^a

WILSON Sent^a

John Wilson convict by his own confession in Court of taking up some gold, English mony & new-England mony in the time of the late fire in Boston (challenged by m^r Increase Mather) & concealing

of it, not attending the Law in crying of it, but offering it to Sale: The Court Sentenced him to pay unto m^r Mather six pound in mony being 3^{ble} damages according to law: the mony found with him valued at three pound being returned again & to pay fees of Court standing committed &^a

Town of Boston under a penalty

The Town of Boston having been formerly presented for an insufficient high-way by the house of Benj^a Gibbs and put under a penalty of £.5. to bee repaired by this Court: The Court declared the penalty to bee due and order them to reparaire the high-way now present^d by Tho: Fitches Joseph Hows &c. by the next Court of this County under the penalty of ten pounds.

MARSHALL etc. agt. WALDRON

Jsaac Waldron having formerly obtained a warrant from authority to make search for a parcell of cattle taken from off his Farme called Bennets Farme, & to Seize the persons with whome they should bee found; the s^d cattle being found in the hands of Cap^{tn} Thomas Marshall William Bassett, Joel Jinkins & William Edmunds & the s^d persons Seized by virtue of s^d warrant & brought before authority, and one of them bound over & the rest ordered to appeare to answer it at this Court, and the s^d Waldron bound to prosecute them for being possessed of the s^d cattle taken away unduely and without any order or right to them, the persons being called Appeared & s^d Waldron being demanded to prosecute them according to his bond, hee declined it, Saying hee had prosecuted them by his civill actions & declared hee had nothing to charge them with criminally: Whereupon the Court discharged them and adjuge the s^d Waldron to pay them costs the s^d Jsaac Waldron appealed from this judgement unto the next Court of Assistants and himselfe principall in £.10. & Nathaniel Byfeild & William Gilbert as Sureties in £.5. apeice bound themselves respectiely . . . on condition the s^d Isaac Waldron should prosecute his appeale . . .

[This is an outgrowth of Waldron v. Marshall and the four cases that followed, pp. 759-66, above. Waldron appealed from this judgment to the Court of Assistants (Records, i. 77), but was there adjudged to

pay 9*l* 10*d* costs and to the constable 6*s*. His Reasons of Appeal (S. F. 1569.9) follow; the defendants' Answer is in S. F. 1569.5.

Jsac Waldron his Reasons of Appeal from the judgment of a County Court held in Boston January the 30th 1676

Jmprimis it appeareth not, that three of the parties, I am Judged to pay Costs to, were either bound, Summoned, or any way Compelled to Come to the Court, by any Act of my procurement; To Answer any other Complaint, I made against them, then that I prosecuted them for, All which Complaints I made, is written in their Severall Attachm^{ts} And was prosecuted in the Same Court, as appears by the Severall Judgm^{ts} of the Court therupon. Therefore According to Law, Title, Attachm^{ts} Summons Sect 2^d they had no need to appear; And Therefore as I humbly Conceive should not have their Charges paid them by me, wherefore I appealed.

2 Secondly though the said Iudgment, or Rather the preface to it, saith one of them bound Over, and the rest ordered, There is no Legall appearance of that order, (As I humbly Conceive) I am sure not by that Last Cited Law and Sect.

3 Thirdly I humbly Conceive, I have prosecuted my bond, or the tenure thereof, According to Law; Witness the Verdict of the Jury, who found the matter of fact against every one of them, against whom I Complained because they found my Cattell, in their hands, and Ordered them to be returned me, vnder the forfeiture of a valuable Assumpsett, which was approved by the Court, and made a Judgm^t for me, against the parties Complained off

Lastly the Appealant is Judged to pay them Costs, it is not said their Costs, and also the Costs of whom they pleased. But I find Charged for eight Witnesses attending three dayes a peice, fourty eight Shillings, but wheither they was Indians, or English, I know not, for they are nameless and they was Invisibile at the Court to me, and also to themselves (for ought I know) yet all is allowed against the appealant, as by their Bill of Costs, which for the Regulation thereof, and the reasons above said

J Appealed

All which is humbly left for Releife of the well wisher, Lover, and Respective Servant, to this Honoured Court and Jury

Jsac Waldron ¹

These Reasons were received Feb^r 28th 167⁹

per Js^a Addington Cler]

[430] WEBB his order for Fees

The Court orders the County Treasuro^r to pay unto Marshall Joseph Webb the six pence per action according to Law and five pounds per annum (out of the ten pounds ordered by the Court to bee paid unto the marshall by a former order) from the time of his being in place.

¹ The clerk (not Addington) who appears to have drawn up and signed this document gave evidence of being in a playful mood, in that the ornate flourish on the "J" of "Jsac" in the signature takes the unmistakable form of a human head in profile.

LOVELL Sentenc^d

John Lovell Senio^r of Weymoth presented for an ungoverned tongue by rayling upon his neighbours & calling them bad names on consideration of what was proved ag^t him The Court Sentenc^d him to give in bond with Sureties of twenty pound for his good behavio^r untill the next Court of this County & to pay charges of prosecution & fees of Court standing committed &^a

DOVE admonish't

Daniel Dove bound over to answer for suspicious speeches given out by him of a fire likely to happen in the town of Boston: Upon consideration of what was proved ag^t him. The Court admonish't him & ordered him to pay fees of Court.

Wakefeild admonish't

Samuel Wakefield being complained of for being in a great measure instrumentall in the late great fire in Boston by his carelessness The Court (on consideration of what was alleaged ag^t him) admonish't him & ordered him to pay fees of Court.

MEARES Fin^d £.7. etc.

James Meares convict of retailing wine without Licence The Court Sentenced him to pay Five pounds in mony fine to the County according to Law: and for keeping a disorderly house and entertaining persons unseasonably Sentenced to pay Forty Shillings more in mony, and to give bond with Sureties of One hundred pound for his good behavio^r especially not to transgress the law by retailing of wine untill the next Court of this County and to pay charges of prosecution & fees of Court standing committ^d &^a

BARBER Fin^d 20^s

Mary Barber convict of being drunke & suspiciously accompanying with George Pike Sentenced to pay ten Shillings in mony fine for her drunkenness and ten Shillings for her accompanying wth s^d Pike & fees of Court standing committ^d &^a

PIKE Fin^d 20^s

George Pike convict of suspicious accompanying with Mary Barber Sentenc^d to pay twenty Shillings in mony fine to the County & fees of Court standing committ^d &c.

The Court adjourned to the 8th of February next.

February .8th 1676.@

The Court met according to adjournm^t

Present

JN^o LEVERETT Esq^r Gov^r

SIMON BRADSTREET Esq^r

EDW^d TYNG

THO: CLARKE

JOSEPH DUDLEY

} Esq^{rs}

DAVENPORT his Estate Settled

For a Setlement of the Estate of the late m^r John Davenport dec^d who dyed intestate: The Court assigns to and confirms upon Abigail his Relict the whole Estate of movables (excepting the Bookes according to his declared minde) and the use and rent of the house untill the Children come of age & then a farther division to bee made.
[431]

BENNETT disabled for giving testimony

Samuel Bennet convict in Court of denying by writing or acknowledgement under his hand what hee had formerly given his Oath unto & not being carefull of what hee Sweares unto The Court on consideration thereof do disable the s^d Bennet for giving testimony in any case whatever.

[Bennett had been the star witness for Isaac Waldron in the series of cases that he won before the adjournment. See especially p. 763, above, where Waldron denies having boasted that he could make Bennett swear to anything for one pint of liquor.]

Order about MAKIAH's Estate

Ordered that the remainder of the Estate of Daniel Makiah late of Dedham dec^d in the hands of Captⁿ Daniel Fisher Adm^r to the s^d Estate; bee committed unto Nyle Makiah, hee giving Security to bee

responsible in case any neerer relation appeare hereafter to make claime thereunto & that Captⁿ Fisher bee discharged from his administration.

HUBBARDS Freedom

m^r John Hubbard of Boston tooke the Oath of Freedom of this Colony.

Vsher his Exec^{rs} Fin^d

The Court do Sentence the Exec^{rs} of the last will and Testam^t of m^r Hezekiah Vsher late of Boston dec^d (viz. m^{rs} Mary Vsher widdow m^r Hezekiah Vsher & m^r Jn^o Vsher) to pay the Summe of thirty pounds in mony fine to the County being five pounds per month according to law from the County Court next following the death of the s^d Vsher untill this Court, for their neglect to perfect the probate of s^d will by not bringing in an Inventory of the Estate, whereby the Court might see justice done according to s^d will.

[Copies of Usher's will, inventory, and debts are in S. F. 1464 and 26334. An extract from the will is printed in the case of Usher v. Usher at the October session, 1678, below, p. 948.]

This Court dissolved.

LANCASTER to JACKLEN

William Lancaster personally appeared before John Leverett Esq^r Gov^r and Edward Tyng Esq^r Assist. February. 13^o 1676. and confessed judgem^t ag^t himselfe and Estate unto Samuel Jacklen for Four pounds ten Shillings in mony.

as attests. Js^a Addington Cler

Execucion issued march. 22^o 1676/7.

Hood to TAY

Jeremiah Hood of Sudbury personally appeared before John Leverett Esq^r Gov^r & Edward Tyng Esq^r Assist. April: 5th 1677. and confessed Judgement ag^t his Estate & person unto John Tay of Boston for three pound Eight Shillings to bee paid in mony.

as attests. Js^a Addington Cler [432]

At a County Court held at Boston Aprill. 24^o 1677.@

Present

JN^o LEVERETT Esq^r Gov^r
SIMON BRADSTREET Esq^r

EDW^d TYNG
THO: CLARKE
JOSEPH DUDLEY } Esq^{rs}

Grandjury the same with the former Court

Jury of Tryalls Sworn

Deacon Tho: Holbrooke	Rob ^t Pepper	Shadrach Thayre
Abel Porter jun ^r	Jn ^o Baker	Jn ^o Thurston Sen ^r
Nath: Blague	Henry Gearney	Jn ^o Lazell
W ^m Gilbert	Tho: Holman	Jn ^o Houghton

[WILLIAMS v. MATHER]

Samuel Williams plaint. ag^t Timothy Mather Defend^t The plaint. withdrew his action.

[DEANE v. HUBBARD]

Thomas Deane assigne of John Glover plaint. ag^t John Hubbard Defend^t in an action of debt of twenty Eight pounds in mony due by bill bearing date august. 4th 1676. This case being called the parties appeared and the Summons being read, m^r Hubbard produced a coppie of a Record of the Court Assistants putting a Supersedeas to the payment of this mony; upon which the Court granted a non Sute. The plaintife appealed from this judgement unto the next Court of Assistants and himselfe principall in £.10. Cap^t Jn^o Richards and m^r Richard Wharton Sureties in £.5. apeice bound themselves respectively . . . on condition the s^d Tho: Deane should prosecute his appeale . . .

[This case probably grew out of the sordid business of "seizing Indians at the eastward & making sale of them at Fyall," as appears in the Records of the Court of Assistants, i. 91, Glover, one of the condemned slave traders, having previously sold a "part of the produce of that voyage" to Hubbard. The following addition to the entry, in the handwriting of Edward Rawson, is found in S. F. 1631.1:

Notwthstanding m^r Deans wthdrawing his action The Court ordered he should be pajd his 28^{li} wch he pd m^r Jn^o Glouer he not knowing y^e Courts order when

Glouer Assigned his bill to him y^e sd Glouer. y^e sajd Glouer was Informed y^t his mony in m^r Hubbards hand was to lye till y^e Court determd it. E R S

Deane's Reasons of Appeal (S. F. 1631.4) follow:

Thomas Deane Assignee of John Glouer Plaintiffe against Jn^o Hubbard Defend^t his Reasons of appeale from the Judgment of the County Court held at Boston, the 24th Aprill 1677

First. Because the Law Title: (Bills folio 10) Saith that any debt or debts, due vpon bill or Specialtie assigned to another Shall be as good a debt & Estate to the assignee as it was to the assignor, at the time of the assignation, and that it shall be Lawfull for the Assignee to Sue and Recouer the Said debt due vpon bill and So assigned, as fully as the Originall Creditor might haue done; Provided the assignement be made on the backside of the bill or Specialtie, Now John Hubbards bill to John Glover, for payment of the Summe of Twenty Eight Pounds, was on the tenth day of Aprill. 1677. according to the aboue cited law, assigned to the appellatant, and so became a due debt to him, which by the Judgment of the Honnord Court was denied him, Therefore ground of appeale.

2 Jn that there is a Maxime in Law, that that Power which gives being to a matter or thinge, there must be the Same or a greater power that Can make it void, but the Power of the honorable General Court, hath given being to that Law of assignments of bills by which the appellatant deriues his right, therefore he ought to haue the benefitth thereof. Except the Generall Court or a greater power hath mad[e] the S^d Law void, which not appearing there is ground of appeale.

3 Jn that it is affirmed that the Councell or Court of assistants, haue power to make Such an act, to dismissee the plaintiffe of his money which he must assume the boldnesse to deny, Yet if it were granted that the Court of Assistants, haue in Some Cases Such a power to Null or make void an act of a generall Court, it then ought at Least to be Recorded & Sufficiently published, (otherwise no law of the Generall Court is in force) but that did not appeare, therefore ground of appeale.

4. Because it was held good in law, that the Court of Assistants making an act on the 17th of Aprill 1677 (Seven dayes after the assignement of the S^d bill to the appealant) that what was only sa[id] or discoursed, Concerning the Said debt, by the Councell or Court of Assistants, on the 10th March 1676 though not recorded Should ta[ke] its rise and force, of an order from that day, the appealant answers in the Negatiue. Because all lawes and acts of Parliament or other Courts of Judicature are & ought alwayes to be Recorded, otherwise they haue noe Existance or being at all, Nor is any law, ordinance of parliament or act of any Court in force, untill it be Sufficiently published, See our Law page 1: The Entry or Record in Court being the very Essence of an act of Parliament. statute or order of Court, from the very Instant of the Entry it takes its birth, and from the time of its publication it takes its force, hence it is that Courts of Justice are Called Courts of Reccord, (against which there is no averrment) to which purpose that office in England is Called, Custos Rotulorum and as a Law or order of Court takes its being from the Instant of Recording, So it never looks back nor takes its rise, or be in force from the first time it was in agitation or debate, for many times acts of Parliaments [&] of Generall Courts are in Concederation & debate,

Seuerall Sessions before they are Entred, and from thence they Come to be Called acts or orders as hath bene Said, otherwise they dye & Come to nothing, as many proposals & discourses in the greatest Courts have done, for Instance in a private Case, if a man should Confesse A Judgment in Court for payment of One hundred Pounds to another, if this be not Recorded, it is of no vallidity in Law, though a hundred men Could witness it, and the Reason is (as hath bene Said,) Because it is the Reccord and due Publication thereof that giues being & legall force to any act of Court, from whence it appeares, that what the honnored Court is Said to do on the 10th of March 1676 Concerning the Stoppage of the Said money in the hands of said Hubbert, declared to Said Glouer, but not Recorded is null in law, nor is it the appellants place to Question the Secretary for his Omission or Neglect therein, (as hath bene Suggested) but of necessity the Secretary must Stand to the Censure of the Court, to whom he is a minister

Jn fine the Appellant hath had noe designe in this businesse, to hinder or frustrate the honnor^d Court in any of their proceedings therein (were it in his power,) but hath acted in all plainesse in Common Negotiation as men vsually buy & Sell assigne and Sett ouer, there being as he humbly Conceives no law, which doth enjoyne any man to Search reccords of Court, Concerning anything that is to be bought or Sold Except land or Such like, soe that the premises Considered the appellant doubts not but this honnord Court & Jury will See the appealant hath ground Sufficient to appeale.

Tho: Deane

These Reasons were received aug^o 28^o 1677.
per Js^a Addington Cler

S. F. 1631.5

A breife Reply (in the absence of m^r John Hubbard) unto m^r Tho: Deane his Reasons of appeale from the Judgement of the County Court held at Boston in April last past in the action commenced by him as assigne of John Glover against s^d Hubbard.

As to his first wherein hee cites the law for assignments of bills pleading the validity or Legality of his debt, being by assignm^t of a bill: — Jt's readily granted that where the principall stands in a capacity of recovering a debt by bill, his Lawfull assigne hath as full power, and is in as good a State for obtaining of the s^d debt as the Original Creditor was before the assignation: But our question lyes not here, nor was m^r Deane denyed a tryall because of his being an assigne; for had John Glover the Original Credito^r Sued this bill, hee had no more been admitted a procedure then m^r Deane was.

As to his third and fourth wherein the appealant undertakes to discourse the power of the Court of Assistants or Council in making of acts or orders and the manner of passing them to give them a force; Jt's wide of the present purpose to engage in any such controversy; and that which the Hono^{ble} Court of assistants now in being are best able to resolve.

But that which the County Court grounded their verdict or Sentence upon was the act of the Court of assistants a Superio^r Court, who (for reasons best known to themselvs) had forbid m^r Hubbard paying of this mony, and order it to bee reserved in his hand on acco^t of publique charges, and had the County Court admitted a Sute notwithstanding; they would have passed under censure as taking upon them to reverse or act contrary to the orders of a Superio^r Court:

Therefore as this case was circumstanced the County Court did justly deny m^r Deane a tryal for which hee had no reason to appeale; But the matter is left to the Judgement of the present Hono^{ble} Court, this being humbly offered.

Per yo^r humble Servant

Js^a Addington

1677

At the Court of Assistants (i. 94) "the plaintiff wthdrew his Accion & was ordered to haue his entry mony wch he had."]

DODSON ag^t PHIPS

Francis Dodson plaint. ag^t William Phips Defend^t in an action of debt for non payment of twenty three pounds Six Shillings and eight pence the one halfe in mony and the other halfe in goods (being the one third part of Seventy pounds) due per covenant under hand and Seale bearing date March. 23^d 1676. and paiaible unto the s^d Dodson when the s^d Phips his Cellar was Stoned, which was done before last winter, with other due damages according to attachm^t dat^d April: 10th 1677. . . . The Jury . . . found for the plaintife twenty three pounds six Shillings and eight pence halfe in mony and halfe in goods according to covenant & costs of Court. The Defend^t appeal^d from this judgement unto the next Court of Assistants and himselfe principall in £.26. and Cap^t Ben: Gillam and Tho: Norman Sureties in £.13. apeice bound themselves respectiely . . . on condition the s^d W^m Phips should prosecute his appeale . . .

[Phips Reasons of Appeal are in S. F. 162170.]

SIMPSON agt. SALTER etc.

Lo: Ammi Simpson who married Elisabeth the Relict of Richard Critchley plaint. ag^t Jabesh Salter and Nathanael Adams Defend^{ts} in an action of the case for not paying the Summe of ten pounds in mony due from them according to the Judgem^t of the County Court [433] held at Boston by adjournm^t of the Generall Court the. 23^d of November. 1675. with all other due damages according to attachm^t dated march. 30th 1677. . . . The Jury . . . found for the plaintife ten pounds in mony & costs of Court allow^d nineteen Shillings two pence

Execution issued 7th May. 1677.

[See case of the same name in the session of 29 July, 1679, below, p. 1040.]

GOULDING agt. RUSSELL

Peter Goulding Father of Mary Goulding plaint. against James Russell of Charlestown Merchant Exec^r of the last will and Testament of his Father Rich^d Russell Esq^r late of Charlestown dec^d Defend^t in an action of the case for not keeping her nor giving nor paying of ten pounds in mony due to bee paid or given unto her as hee the s^d James as Exec^r afores^d is bound to doe by Jnstrument or Jndenture or writing so called under the hand & Seale of the s^d Richard Russell bearing date or made the ninth day of February in the yeare of our Lord. 1670. and also for not teaching nor causing her to bee taught as Shee should have been taught by virtue of the said Jndenture and all other due damages according to attachm^t dat^d April: 5th 1677. . . . The Jury . . . found for the Defend^t costs of Court: The plaintife appealed from this judgem^t unto the next Court of Assistants & himselfe principall in £.5. and Joseph Smith and Rich^d Knight Sureties in Fifty Shillings apeice bound themselves respectiuely . . . on condition the s^d Peter Goulding should prosecute his appeale . . .

[See Records of Assistants, i. 98.]

DUMMER ag^t SHRIMPTON etc.

Jeremiah Dummer plaint. ag^t Sam^{ll} Shrimpton Adm^r to the Estate of Theodore Atkinson dec^d and Henry Deering who married Elisabeth Relict & administratrix of s^d Theodore Atkinson Defend^{ts} in an action of the case for non payment of twenty three pounds Fourteen Shillings in mony due by bill bearing date the 19th Octob^r 1675. under the hand of s^d Theodore Atkinson with all due damages according to attachm^t dat^d april. 19^o 1677. . . . The Jury . . . found for the plaintife twenty three pound Fourteen Shillings mony according to bill & costs of Court allow^d twenty five Shillings two pence.

PROUTT agt. SCARLETT

William Proutt plaint. ag^t John Scarlett Exec^r to the Estate of Cap^t Sam^{ll} Scarlet dec^d Defend^t in an action of the case for non paym^t of one hundred pounds in mony given by S^r Thomas Temple dec^d unto Love Gibbons [434] now the wife of the present plaintife being delivered to Capt. Sam^{ll} Scarlett for the use and benefit of the s^d

Love Gibbons and received by the s^d Scarlett in or about the yeare. 1663. with due interest and all other due damages according to attachm^t dat^d april: 19^o 1677. . . . The Jury . . . found for the plaintife one hundred pounds mony & costs of Court, allowed twenty three Shillings and two pence: The Defend^t appealed from this judgement unto the next Court of Assistants and himselfe principall in £.100. and Nicholas Paige and William Coleman Sureties in £.50. apeice bound themselves respectiuey . . . on condition the s^d John Scarlett should prosecute his appeale . . .

[The following agreement is on file in S. F. 1582.3:

Whereas it was agreed Betwene m^r John Scarlett of Boston & William Proutt, of Boston aforesaid, viz^t. that the Said William Proutt should haue one Quarter part of Such part of the Estate of the late Cap^t Sam^{ll} Scarlett: which was not mentioned in his Last will, which accordingly J whose name is vnderwritten, doe acknowledge to haue Rece^d one fourth part of all Such goods which as yet appeared, also Doe acquitt & discharge m^r Jn^o Scarlet, of & from the Same, as also from all Such Estate which was disposed of before the Death of the late m^{rs} Mary Scarlet, Provided, that m^r John Scarlet shall deliuer vnto me a Quarter part of Such Estate, which was not willed as aforesaid, which shall hereafter Come to Light, as Wittnesse my hand this Twelfth Day of December 1676

William Proutt

Wittnesse: Joseph Proutt
Thomas Kemble

This (S. F. 1582.7) is one of several depositions to the same effect:

The Deposition of Timothy Proutt Junio^r aged Thirty three yeares or thereabouts, Testifyeth and Saith, that about Six yeares Since, S^r Thomas Temple Came accidentally to the Said Deponents house, & there asked of him, whether his brother William were going to be married to Loue Gibbons & J told him, J thought he was, & he said he was glad of it, and that he had given her One hundred Pounds, & that Cap^t Samuelt Scarlett had it, in his hands Several yeares to be Improved for her, & further Saith not

Sworn to in Court this 24th April 1677
as attests Js^a Addington Cler

The case was appealed to the Court of Assistants (Records, i. 95), where the former judgment was confirmed.]

PROUTT agt. SCARLETT

William Proutt Attourney to Captⁿ Thomas Tinner of Burmoodos plaint. ag^t John Scarlett Executo^r to the Estate of Cap^t Samuel Scarlett dec^d Defend^t in an action of the case for non payment of ten thousand five hundred Fifty and Eight pounds of Nevis Tobacco

which is due upon Forfiture of a bond bearing date. April: 10th 1650. for not paying two thousand five hundred Seventy & nine pounds of s^d Nevis Tobacco nor the produce thereof which is due by s^d bond with all other due damages according to attachm^t dat^d April: 19^o 1677. . . . The Jury . . . found for the Defendant costs of Court.

LYTHERLAND ag^t HUDSON

W^m Lytherland plaint. ag^t Cap^t W^m Hudson Defend^t The plaint. withdrew his action.

HUTCHINSON ag^t ATHERTON &^s

Elisha Hutchinson Elisabeth Winslow Anne Dyer and Susanna Hutchinson Executo^{rs} to the last will & Testament of Cap^t Edward Hutchinson dec^d plaint^s ag^t Jonathan Atherton Timothy Mather, James Throbridge & Obadiah Swift in behalfe of themselves the widdow and the rest of the Children adm^{rs} to the Estate of major Humphry Atherton dec^d or either of them Def^{ts} in an action of the case for not paying the summe of four pound five Shillings and nine pence due by booke & all other due damages according to attachm^t dat^d Feb^r 13^o 1676. . . . The Jury . . . found for the Defend^t costs of Court p^d six Shillings. [435]

VSHER agt. SHAPLEIGH

John Vsher plaint. ag^t Major Nicholas Shapleigh Def^t in an action of debt for thirteen pounds in mony due by booke with interest and other due damages according to attachm^t dat^d April: 16^o 1677. . . . The Jury brought in a special verdict i. e. if an order under a mans hand without being attested to bee a sufficient Evidence then wee finde for the plaint. thirteen pounds mony & costs of Court, if not wee finde for the Defend^t costs of Court. The Magistrates upon perusall of the papers and consideration of this verdict finde for the plaint. thirteen pounds mony & costs of Court.

SANDIFORD ag^t PARRICK

Henry Sandiford plaint. ag^t John Parrick Defend^t The plaint. was nonSuted in failure of process.

LIDGETT agt. PAIGE

Charles Lidgett plaint. ag^t Nicholas Paige Def^t in an action of debt of two hundred Forty three pound two Shillings good and currant mony of New-England due by bond under his hand & Seale bearing date the. 20^o of July. 1676. with all other due damages according to attachm^t dat^d April: 18^o 1677. . . . The Jury . . . found for the Defend^t costs of Court.

BASS ag^t BELCHER

Samuel Bass Senio^r plaint. ag^t Joseph Belcher in an action of the case for withholding a debt of four pounds ten Shillings or thereabout due for Malt received by the s^d Belcher with all other damages according to attachm^t dat^d March. 16^o 1676/7. . . .The Jury . . . found for the plaintife four pound ten Shillings & costs of Court allowd twenty Shillings.

Execucion issued april. 30^o 1677.

CANE agt. CANE

Margery Cane plaint. ag^t Jonathan Cane Executo^r to the last will and testam^t of Ruth Johnson dec^d Defend^t in an action of the case for refusing to pay the summe of twenty pounds due to her as a legacy given her by Ruth Johnson as appeares by her last will and testam^t bearing date. April. 3^d 1676. of which will the s^d Jonathan Cane is sole Exec^r with all other due damages according to attachm^t dat^d april: 14^o 1677. . . . The Jury . . . found for the plaintife twenty pounds according to will and costs of Court. The plaint. giving Security if the heire appeare & recover it back by law to bee accomptable for it. costs. £.01:5:2.

Execution issued 19^o Feb^ry 77. bond on file with the case.

CANE agt. ^{sr}CANE

Esther Cane plaint. ag^t Jonathan Cane Executo^r to the last will and testam^t of Ruth Johnson dec^d Def^t in an action of [436] the case for refusing to pay her the summe of thirty pound in mony due to her as a Legacy given her by Ruth Johnson as appeares by her last will and testam^t bearing date. April. 3^o 1676. of which will the s^d Jonathan Cane is sole Exec^r with all other due damages according to attachm^t

dat^d april: 14^o 1677. . . . The Jury . . . found for the plaint. thirty pounds mony and costs of Court: The plaint. giving Security if the heire appeare and recover it back by law to bee accomptable for it. costs £.01:5:0

Execucion issued. 19^o Feb^{ry} 77. bond on file with the case.

[Esther Cane and the Johnson property are referred to in S. F. 4692.2.]

DAVIS agt. HATHORN

Benjamin Davis attourney of Abraham Jesson of London plaint. ag^t Eleazer Hathorn of Salem Def^t in an action of the case for non payment of One hundred and Eighty pounds good and lawfull mony of England as may appeare to bee due by a bond under s^d Hathorn his hand and Seale dat^d July. 26^o 1675. with all other due damages according to attachm^t dat^d april. 12^o 1677. . . . The Jury . . . found for the plaint. the Forfiture of the bond one hundred and Eighty pounds lawfull mony of England and costs of Court allow^d twenty five Shillings 2^d

Execucion issued June. 11^o 1677.

GILBERT agt. MATSON

John Gilbert plaint. ag^t Thomas Matson prison keeper of Boston Defend^t in an action of the case for not keeping in safe custody the person of William Obison who was committed to him by Execution upon acco^t of s^d Gilbert, but releasing him s^d Obison without consent either of authority or the person concerned who is the aforesaid Gilbert; neither paying the s^d Gilbert the summe of mony for which s^d Obison was by Execution committ^d to prison which was to the value of twenty three pounds in mony or thereabouts whereby the plaintife is damnified to the value thereof with all other due damages according to attachm^t dat^d March. 31^o 1677. . . . The Jury . . . found for the plaint. twenty two pounds sixteen Shillings two pence mony and two Shillings damage & costs of Court allow^d 28^s

Execucion issued april. 28^o 1677.

[Obison, having suffered fine and imprisonment for throwing out the spoiled hides belonging to his fellow-tanner, John Gilbert (see Gilbert v. Obison, above, p. 738), attempted to take it out of Hill, the official scavenger of Boston, who had actually destroyed the hides in question.

He sued Hill at this court in the January session, 1680/81, and obtained a judgment for 20*l*. The defendant appealed, offering as one of his Reasons of Appeal (S. F. 1956.4) that what was done in removing the leather was by specific order of the Boston selectmen. But the Court of Assistants (Records, i. 180) upheld the former judgment. Various papers for the case are in S. F. 1956.3-12.]

ARNALL agt. HARDMAN

William Arnall plaint. ag^t John Harding alias Hardman Defend^t in an action of the case for not performing of a bargain made last summer concerning the coleing of ten cord of wood to bee done by s^d Harding for the plaint. and deliu^r^d but is not according to bargain whereby the plaintife is damnified about the value of twenty pounds with all other due damages according to attachm^t dat^d april. 18^o 1677. . . . The Jury . . . found for y^e pl^t seven pounds damage & costs. 30^s 2^d

Execution issued april. 26^o 1677. [437]

BRATTLE agt. KNIGHT etc.

Cap^{tn} Thomas Brattle plaint. ag^t Richard Knight adm^r to the Estate of John Paine dec^d and Oliver Purchis or either of them Defend^{ts} according to attachm^t dat^d april: 18^o 1677: The attachm^t being read m^r Knight objected ag^t the proceeding, for that hee was put in by the Court to administer in behalfe of all the Credito^{rs} and Commission^{rs} were appoint^d for the receiving of the claimes of the Credito^{rs} to that Estate and m^r Brattle refusing to proceed ag^t m^r Purchis severally The Court granted a nonSute: The plaint. appealed from this judgem^t unto the next Court of Assistants & himselfe principall in ten pounds, & m^r Peter Bracket & Daniel Turell Senio^r Sureties in £.5. apeice bound themselves respectiely . . . on condition the s^d Brattle should prosecute his appeale . . .

[Among the papers filed with this case is the original bond by John Paine and Oliver Purchase, dated 30 January 1667, to pay Thomas Brattle 220*l* in case they do not deliver "fiue tunns & halfe of Good barr yron" to him (S. F. 1637.9); and also the following (S. F. 1637.5):

Thomas Brattle his Reasons of Appeale from the Judgem^t of the County Court held in Boston the 24th of Aprill 1677: Jn an action by him brought against Richard Knight Administo^r to the Estate of John Paine Deceased and Oliver Purchas or either of them

1st Because contrary to Law and practice of the same Court (where the Judges have beene unconcerned) the plaintife was denyed proceedings against Richard Knight as administ^r affores^d or the Estate under his Administracion: Whereas m^r Penn Townsend haveing at a County Court not long before by the same Judges proceedings granted against the Estate of Theoder Atkinson deceased: although the Same pleas were offred as a barr: which the s^d M^r Knight presented: the Honord Gover^r then declaireing that the Committee were appointed to receive the claimes but not impowred to Order Satisfaction to the Credito^rs and that he that could first obtaine Judgem^t ought first to have Satisfaction: according to which assertion; Presedent, and common Reason: (there being then no Law to the Contrary) the appellatant ought to have had Judgem^t and Execution granted as well as the sd Townesend in his case aforementioned: as also the practice of the County Court at Ipswich in a case betweene m^r Winthrop and the s^d Knight as administo^r affores^d: when s^d Winthrop was denyed proceeding at the County Court in Boston: yet there had Judgem^t and Execution granted him on the Estate of the Said John Paine: there being no Law to hinder him; or the said Appellant

2^{ly} Because the Appellant conceives that sundry of the Judges are Credito^rs to the Estate of the said John Paine: And so could not permitt the Appellant: due Legall proceeding, but to the prejudice of their owne Jntrests: and Diminution of the satisfaction that they Expected from the said Estate: if the same should prove insolvant

And therefore contrary to our first fundamentall Law: which Sayth: that no person shall suffer either in his person or Estate unless by vertue of some Express law: &c: The Plaintife refusing to remitt his Sute to the Said Estate he was Nonsuted & so Justice contrary to Law deferred

All which the Appellant humbly leaves to Consideracion craveing that he may be permitted to proceed in his case now and have Judgem^t as he ought to have had at the County Court and that he may not be barred by a Law which then had no being: to which Law after he hath had due proceedings by Judgem^t and Execution he shall so farr as obliged rededly Subject his Jntrest: who is

Yo^r Hono^rs humble Serv^t

Tho: Brattle

These Reasons were received Aug^o 30th 1677

per: Js^a Addington Cler

The jury of the Court of Assistants (Records, i. 100-101) found for Brattle "the forfeiture of the bond of two hundred and twenty pounds sterling according to bond & Costs of Courts," but it was also ordered that no judgment should pass nor execution be granted against Knight as administrator until there should have been an orderly division of the estate "among the creditors thereto as the law hath provided referring to non solvent estates." This law had just been passed at the May session, 1677; it will be found in William H. Whitmore, *The Colonial Laws of Massachusetts*, reprinted from the Edition of 1672, with the Supplements (1887), p. 250.

Shortly afterwards we find the following entry in the Records of the Court of Assistants (i. 103):

Whereas Captaine Thomas Bratle contrary to lawe in his reasons of Appeale presented & by him owned in this Court in prosecution of his Appeale against the Administrato^r to the estate of John Payne doth highly reflect vpon the Hono^r of the County Court of Suffolke that barred his plea & granted non suite as donn wholly vpon self Interes^t & for the obtainment of their owne claymes and contrary to law and this after this Courts sence given thereabouts and time Allowed him for a Just resentment thereof which yet by his petition he rather deffends then otherwise The Court doth therefore sentence him to be discharged from his Commission as Comissione^r in the Towne of Boston & pay one hundred pounds mony & stand comitted vntill his sentenc be performed

The following undated petition of Thomas Brattle (S. F. 1637.4) seems to follow this action:

To y^e Hon^{ble} y^e Court of Assistants The Humble Petition of Thomas Brattle

May it please yo^r Hon^{rs} to Consider That in all Circumstances M^r Pen Townsends Case & his were Parrelllel as yo^r Petition^r & many others humbly Conceive

1^t The one Sues y^e Adm^{rs} & Surety & soe doth y^e other

2^d It is pleaded ag^t Pen Townsend y^t y^e Estate was Jnsolvent & soe it proves But it could not hinder his proceedings Answer being made y^t if Atkinsons Estate were Jnsolvent M^r Shrimpton y^e Adm^r was Sufficient

3^d As in one case it was pleaded y^t a Committee was appointed to Receive y^e Clayms soe was it pleaded in y^e other

Wherefore yo^r Pet^r humbly Conceives He might Safely bring y^e County Court a p^rsident of their owne soe lately passd or without offence or Suspition of Reflexj^ons & Jnsist vpon y^e same heer And Whereas yo^r Pet^r in his Reasons Seems to Reflect vpon y^e Judges as Cred^{ts} & persons Concerned the Law forbids Relations to Common Reason partyes Concerned to be Judges of Another mans Case, & Such Reasons have frequently been given and Exeptions ag^t Judges & Judgm^{ts} without offence to y^e other Judges But if in y^e manner of Expression anything hath Escaped y^t is Justly Grievous to any of y^e former or p^rsent Judges J Crave y^t my words may have a Candid Interpretacion my Jntencion being onely to Vindicate my Cause not to Asperse y^e Judges whom J am obliged to hon^r

But if my offence seems such as may merit further Animadversion or any Juditial Sentence My humble desire is y^t my Charge may be Legally formed & Reasonable time Given for my Defence & y^e Matter of Fact According to Law Committed to A Jury for Tryall — & yo^r Pet^r shall Ever pray &c

Tho Brattle.

By August 9, 1680, Thomas Brattle was again serving as Commissioner of the Town of Boston (Records of the Court of Assistants, i. 168).]

LIDGETT ag^t TUCKER

Elisabeth Lidget widdow Executrix to the last will and Testament of Peter Lidget late of Boston plaint. ag^t Francis Tucker Defend^t

in an action of the case for refusing quietly to give possession of one halfe part of the pinke Prosperous of Piscataqua formerly belonging to William Bickham but since unto the s^d Peter Lidgett by virtue of a bill of Sale as may appeare with all other due damages according to attachm^t dat^d March. 30^o 1677. . . . The Jury . . . found for the Defend^t costs of Court allow^d thirty four Shillings and eight pence.

PRESSON ag^t GANNET

Daniel Presson Senio^r plaint. ag^t Matthew Gannet junio^r Defend^t
The plaint. withdrew his action.

NEWCOMB agt. WARDELL

Andrew Newcomb plaint. ag^t James Wardell Def^t in an action of the case for that the s^d Wardell refuseth to pay one third part of a fine of Fifteen pound & fees of Court; which the s^d Newcomb was Sentenced to pay at the Court of Assistants in. 7^{br} last for running upon a small boate wherein was severall worthy Gentlemen in which action the s^d Wardall was equally concerned being s^d Newcombs mate and with him at the same time upon equall shares as aboves^d and yet refuseth to pay part of the fine whereby the s^d Newcomb is damni-
fied above five pounds in mony with other due damages according to attachm^t dat^d Feb^r 6^o 1676. . . . The Jury . . . found for the Def^t costs of Court allow^d Seven Shillings and four pence.

[See Newcomb's Sentence, above, pp. 695-7.]

ORCHARD agt. GILBERT

Robert Orchard plaint. ag^t William Gilbert Defend^t in an action of the case for not paying the summe of twelue pound the s^d Gilbert was obliged to pay unto the s^d Orchard [438] in mony or worke to the value thereof & all other due damages according to attachm^t dat^d February. 7^o 1676. . . . The Jury . . . found for the plaintife Six pound four shillings mony or worke to the value thereof and costs of Court allow^d twenty nine Shillings and four pence.

Execucion issued pr^o May. 1677.

[S. F. 162161

To y^e hon^{ble} y^e Court of Assistants

The humble Petition of Robert Orchard Feltmaker Humbly Sheweth

That yo^r Pet^r haveing Jn England entertained a Serv^t named W^m Gilbert to Serve him Jn New Engl^d in his Trade & Calling for two years & hath been att

great Charge to Remove & Transport his s^d Serv^t & [torn] from Engld And After some time of Service heer his s^d Serv^t being [torn] by Evill Councillors absented himselfe from his Jmploym^t: And vpon yo^r [torn] Address & Compl^t To y^e Hon^d Govern^r his Hon^r saw Cause if yo^r Pet^r had not Jnterceded & Remitted his Serv^{ts} Delinquency to have Committed him To Prison However ordered him vpon his perill to Returne to yo^r Pet^{rs} Service Notwithstanding all which y^e s^d Serv^t Regarded not y^e Govern^{rs} Commands nor his owne Duty but Absented himselfe for some Considerable Space from yo^r Pet^r (and as hee was Informed) Jndeavoured to Transport himselfe for Jamaica Wherevpon yo^r Pet^r To prevent his Escape & to Recover Reparacion by some Addition of time for his Damage by y^e neglect of his Service & Extraordinary Charge vpon him by Attachm^t Committed him To prison Where by y^e Countenance & Supply of some Contentious persons hee hath Sett vp & practices his Trade refusing to returne againe To yo^r pet^{rs} Jmployment.

Yo^r pet^r Therefore humbly Commends y^e matter to yo^r Prud^t Consideracion & of what ill Consequence it may bee y^t y^e place y^t is appointed to restraine & punish Refractory Serv^{ts} should bee Jmproved for their freedome and Advantage & to y^e punishm^t & Jnjury of their Masters And humbly Craves yo^r Just Sentence for his Redress & The prevention of y^e like pernitiuous practices for y^e future

And yo^r pet^r Shall ever pray

Robert Orchard

[Endorsed:] orchards petitioⁿ 13. m^{ch} 1676]

ROCK agt. HUDSON

Joseph Rock plaint. ag^t Cap^{tn} William Hudson Defend^t in an action of debt of nine pounds Sixteen Shillings in mony due by bill under his hand bearing date march. 18^o 1674/5. with all other due damages according to attachm^t dat^d april: 17^o 1677. . . . The Jury . . . found for the plaintife nine pound Sixteen Shillings mony according to bill and costs of Court Fifteen Shillings.

Execution issued. 16^o April. 1678.

CLARKE etc. ag^t WILLYS

Thomas Clarke of Boston merchant & Mary Lake Executrix of Tho: Lake dec^d plaint^s ag^t Edward Willys Defend^t for his detaining one hundred Sixty Six pounds Eleven Shillings & five pence mony it being for the value hee received for their part of Moose and Beaver which hee sold of theires & promised to bring the mony in January last and due damages according to attachm^t dat^d april 19^o 1677. . . . The Jury . . . found for the Defend^t costs of Court.

YARDLEY ag^t BODEN

John Yardley plaint. ag^t. John Boden Defend^t The plaint. nor his attourney appearing. The action was nonsuted.

WALLEY agt. WAITE

John Walley plaint. agt. Return Waite Marshalls Deputy Defend^t in an action of the case for that hee the s^d Return Waite underpretence or colour of his office served or extended an Execution bearing date Feb^r 13^o 1676/7. granted to m^r John Saffin by virtue of a judgement of the County Court holden at Boston in January last; which Execution was granted ag^t the Estate or person of Jacob Jesson for thirteen pounds according to Lease, and for want of the Estate or person of s^d Jesson against the Estate or person of John Walley his Surety; and although hee the s^d Return Waite wanted neither the Estate of s^d Jesson or s^d Walley for Satisfaction of s^d Execution but both or either were tendred him by s^d Walley; with mony for charges of Court & Execution; yet hee the s^d Waite refused the Satisfaction tendred & extended s^d Execution upon the person of s^d Walley contrary to Law & committed him the s^d Walley to prison where hee was severall dayes [439] illegally imprisoned by s^d Waite, all which is to the s^d Walley's very great damage according to attachm^t dat^d april: 11^o 1677. . . . The Jury . . . found for the plaintife Fifty pounds mony damage & costs of Court allow^d Forty five Shillings & ten pence. The Defend^t appeal^d from this Judgement unto the next Court of assistants & himselfe principall in one hundred pounds & John Saffin and Rich^d Knight Sureties in £.50. apeice bound themselves respectuely . . . on condition the s^d Return Waite should prosecute his appeale . . .

[This case arose out of the execution issued by the Court in the case of Saffin v. Jesson, above, p. 774.

S. F. 1584.3

Joshua Winsor & Jsaack Walker, aged Twenty Eight yeares or thereabouts Testifie, that vpon the Twentieth of February Last past, being desired by John Walley, went with him & Returne Waite to the warehouse, of Jacob Jesson, where Said Returne Waite Marshalls Deputy demanded of Said Walley, Thirteene pounds in money, for Sattisfaction of an Execution, granted to m^r John Saffin against the Estate or person of Jacob Jesson, and for want of the Estate or person of s^d Jesson, against the Estate or person of John Walley his Surety, whereupon he the Said Walley tendred to Said Returne Waite, Silke lace gimp lace, broad cloth Stuffe and Sarge and Siluer buttons, which he declared to be the Estate of Jacob Jesson & tendred it to the Said Waite in Sattisfaction to the Execution aforesaid, & told the Said Waite if he would attend the Law, for the apprizement of Said goods he was ready on his part to attend it, Said Waite then Said, he would take nothing but money, Said Walley then tendred unto

him Corne, y^t he Said was the Estate of Jacob Jesson: & told him he might take to the full Sattisfaction of his Execution, out of that, & he the Said Walley tendred the s^d Waite also in money for Charges of Court which we told, Twenty nine Shillings & Tenn pence, & Two Shillings in money more for the Execution, & told him he had money there, that if there were other Charges he would pay it, Said Returne Waite againe Said, that he would haue money for the whole, or else he would take his person, The S^d Walley told him, he was not to medle with his Estate, or person, but for want of Estate or person of Said Jesson which was not wanting, & that he ought not to a refused it, but yet he told him that as his owne Estate he tendred a parcell of kersys & Cotton, which he Showed, & told him he might Sattisfie his Execution out of that, & then againe, tendred the Charges in money as aforesaid, & wee testifie that either of the parcels of goods tendred, were in our Judgments of more vaille, then the Summe mentioned in the Execution, but he the Said Waite Said he would haue all money, & refused all the offers made, & Extended Said Execution vpon the person of Said Walley. . . .

Taken vpon oath this 24th of April 1677

Before me Tho. Brattle Commiss^r

S. F. 1584.4

Thomas Mattson prison keeper in Boston, aged forty three years or thereabouts, Testifieth, that vpon the 20th Feb. last, John Walley was deliuered prisoner vpon Execution, by Returne Waite Marshals Deputy which Execution was granted to m^r John Saffin, for Thirteene pounds, according to lease, on which Execution Said Walley remained a prisoner foure dayes, in which time he made me Severall offers in order to his discharge, but J told him J Could not let him goe, without he left money to Sattisfie m^r Saffin, Said Walley told me, he did not thincke the law obliged him to pay money, he then tendred me for Sattisfaction a parcell of English goods to the vaille of Sixteene pounds or vpwards out of which by legall apprizement he told me J might Sattisfie Said Execution, & laid downe money for Charges of Court Execution & marshalls: fees. J told him J must have money he Said then if there was no other way but he must buy his liberty, he must do it, for his businesse was Such, he Could not lye there whereupon that he might be discharged he left with mee, besides the goods abouesaid, & money for Charges as aforesaid, Thirteene pounds in money, but Said it was the goods he left for Sattisfaction of Said Execution, but not the money for that he Left, because of his necessity to goe about his occasions, & the goods Said Walley left are still in my Custody, whereupon havinge paid the Charges for his accomodation & fees of prison, was lett out of prison,

Taken vpon oath the 24th of 2^d monthe 1677

Before me Anthony Stodderd Commiss^r

The Court of Assistants, on appeal (Records, i. 99–100), “found for the plaintiffe an Abatement of the former Judgment to thirty pounds in mony & Costs of Court.”]

NORMAN agt. SKINNAR

Thomas Norman Attourney to William Waldron plaint. ag^t James Skimnar Defend^t in an action of the case for unjustly and without

order Seizing & detaining a parcell of goods and wares or merchandize in august last at Damaris cove in the house of William Waters whereby the plaintife or his principall is damnified the value of twenty pounds in mony or thereabout wth all other due damages according to attachm^t dat^d april: 3^d 1677. . . . The Jury brought in a speciall verdict i. e. if goods that are removed & secured from the common Enemy may bee legally said to bee unjustly Seized or detained, then wee finde for the plaint. the goods in controversy according to Acco^t given in & costs of Court; if not wee finde for the Defend^t ten Shillings in mony for securing of the goods & costs of Court. The Magistrates upon consideration of this verdict & perusall of the Evidences finde for the Defend^t The plaintife appealed from this Judgem^t unto the next Court of assistants & himselfe principall in three pounds & William Waldron & W^m Rawson Sureties in thirty Shillings apeice bound themselves respectiuey . . . on condition that the s^d Tho: Norman should prosecute his appeale . . .

[Among the several depositions on file in S. F. 1635, the three here printed sufficiently explain the facts. They are followed by Waldron's Reasons of Appeal and Skinner's Answer. The Court of Assistants (Records, i. 96) upheld the lower court and awarded 35s 2d costs to Skinner.

S. F. 1635.6

The deposition of Abraham Milman aged about 30. yeares and of John Roe aged about 35. yeares who Saith that they being at Damaris Cove sometime in august last past when the Indians cut off the English in those parts and burn't theire houses and the rest fled and hastned every Boate as they could to get away and there being left onely our Boate and James Skinners Boate at the s^d Damaris Cove, the s^d James Skinner adventured his life and went to one William Waters his house, to take care to secure some of his freinds or relations that were in the house, and seeing some goods hee brought them away also and Secured them and forthwith come away with his Boate, and these deponents do further Say that if the s^d Skinner had not taken those goods and brought them away, they had been a prey to the Jndians for hee nor any else durs't adventure to go to the house a second time and further Saith not.

Taken upon Oath. 23. 2^{mo} 1677

Before me. W^m Hathorn assist

Vera Copia attest^r Js^a Addington Cler

S. F. 1635.9

Abigail Waters aged .23. yeares or thereabout testifieth and Saith that Will: Waldron was at my husbands house the last Summer and did hire a Chamber of him to put his goods in and when Will: Waldron went to Boston hee left three barrells of Tobacco, two Ruggs some Duffals hatts Kearsy and other goods in

the house and in his Chamber that hee had hired, and further Saith that William Waters my husband gave the s^d Skinner order not to meddle or take any of William Waldrons goods but to lock the dore and give the key to some of John Selmans family and further Saith not.

Sworn in Court. April: 25^o 1677.
as attests Js^a Addington Cler.

S. F. 1635.8

The deposition of Tomasin Gover aged about. 37 yeares and of Richard Skinner aged. 16. yeares. who Saith that one William Waldron came to James Skinner where hee Sojourned at Marblehead to demand some goods of his (as hee said) that the s^d Skinner brought from Damaris Cove when they fled from the Indians; the said Skinner said what goods hee had saved from the Indians and brought with him, that were his the s^d Waldrons hee would deliver him provided hee would give him Satisfaction for his preserving of them; but Waldron would not promise him anything but would have him stand to his courtesy so they agreed not.

Taken upon Oath. 23. 2^{mo} 1677

Before me. W^m Hathorn Assist,

S. F. 1635.4

William Waldron his Reasons of Appeal, from the Judgment of A County Court, held in Boston Aprill y^e 24th 1677. which Judgment was Given vpon an Action, There Commenced by his Attorney, Thomas Norman

first it plainly appears, that the Appealants Goods sued for, was left in his own Chamber, which he had hired, And also that the Defendant was forewarned, and possitively ordered, not to meddle with the Appealants Goods at all, by the testimonyes of Elizabeth Arthurs, and Abigail Wate^rs, yet notwithstanding he took away Seized, and Detaineth, the Appealants Goods, as by y^e testimonyes of John Silman, William Hobby, and his own Account, may appear As also by Milman and Roes Oath which testifye, y^t the Defendant took away the Appealants Goods, And y^t all the Reason why he did take them, was because he Saw them there. Yet the Appealant is Cast by the said Judgment, to pay ten shillings mony, and Costs of Court for Saving his Goods, And yet no order is granted yo^r Appealant, to demand his Goods Wherefore he Appealed, to this Honrd Court of Assistance for Reliefe

Secondly it appeareth there was nothing Due to the Defendant for Salvage, because he he putt himselfe upon the work to take my Goods without my Leave, nay though he was forbid, to meddle with them yet he took them, w^{ch} J humbly Conceive was very vnreasonable and Especially in y^t he did not make me Acquainted with what he had done, till J found Some of my Goods, in his house, and upon his Back. Also by the testimonyes of Elizabeth Arthurs and Abigaile Wate^rs may appear y^t he was ordered, to Lock the Dore and to leave the key with John Silman a neighbour, but he brought Goods and key and all away because he saw the[m] as by y^e oathes of Milman and Roes may appear, So y^t J hope it plainly appears my Due to have my own said Goods againe and Costs, or the true value thereof; To Attaine which J Appealed to this Hon^d Court, and am yo^r Hono^{rs} humble Servant

Will Waldron

These Reasons were Received from the hands of William Waldron Aug^o 25^o 1677.

per Js^a Addington Cler

S. F. 1635.3

James Skinner his Answer to William Waldren his Reasons of Appeal now presented to the Honrd Court of Assistants

First To his first Reason I answer that whereas he saith the goods sued for were left in his own chamber he had hired; to that I say I knew neither whose goods they were nor who had hired the Chamber And whereas he saith I was forewarned and positively ordered not to meddle with them I utterly deny his Assertions I not being forbidden nor ordered by any person about them but hearing of the distress the people there were in I adventured my life for thier relief and being there thought it my duty and an act of Charity to save and secure both persons & Estates as far as I could to my power which I did; amongst which this small parcell in controversy which William Waldron at his returne to Marblehead laid claime unto at which I rejoiced being desirous every person should have his own & accordingly on his demand I tendred him the goods in Controversy provided he would pay me what was meet for saving of them which he refused And for his complaint that he was per that Iudgment Cast to pay ten shillings & costs of Court it is his own fault for if he would have paid me any small Reasonable sum for saving of the goods I should have gladly delivered them to him so that he might have saved y^t Charge or had he now submitted to the righteous Iudgment of the Court Appealed from it would have saved this trouble both to me & himself and he might have had his goods & improved them as he pleased but being thus Causlesly troublesome I hope the Honrd Court & Iury will see cause to Confirme the former judgment and allow me something Considerable for my time & Expençe it now being a busy season for us fishermen

2 To his Second Reason I answer whereas he saith there is nothing due for Scalvage because he put him self on the work I hope the Honrd Court And Iury will be satisfied by my first answer in reference to my call to put in there at that time and to do my Endeavour to save and secure what I could of the persons & Estates of my friends and Countrymen And whereas he saith I was forbidden I deny it as before and whereas he saith I did not make him acquainted with what I had till he found some of his goods in my house and on my backe I answer I knew not whose they were therefore could not acquainte him that they were his and in that he saith he found some of them on my back I utterly deny it, & Whereas he saith I was ordered to lock the door and to leave the Key wth John Silman but brought away the key & goods too it is not true for I had no such ord^r neither did I see any key or bring away any but that I adventured my life to save what I could in that juncture of time when the Enemy was upon them and what I did save of his I was ready and willing to deliver to him upon the termes aforesaid all which did appear to the Court appealed from and will I hope appear to this Honrd Court & Iury who I doubt not but will do me Iustice in the Case to whom I comitt the result thereof and Subscribe

Yo^r Wors^{pps} humble serv^t

James skinner]

BAKER agt. MARSHFEILD

John Baker plaint. ag^t Samuel Marshfeild Defend^t The plaint. withdrew his action and the Court ordered his entry mony to bee returned him.

TURILL agt. PHIPS

Daniel Turill junio^r plaint. agt. William Phips Def^t in an action of debt of thirteen pounds nine Shillings in mony due to s^d Turell as shalbee made appeare by sufficient Evidence with all other due damages according to attachm^t [440]. . . . The Jury . . . found for the plaintife thirteen pound nine Shillings mony and costs of Court.

CLARKE ag^t YALE

Thomas Clarke of Boston merchant plaint. ag^t David Yale Defend^t in an action of the case upon acco^t for withholding of a debt of about two hundred pounds, with forbearance and other due damages according to attachm^t This action being continued from the last County Court and the acco^t referred to an audit: and being now called . . . The Jury . . . found for the plaintife one hundred Forty five pound thirteen Shillings four pence halfe penny ballance of account & costs of Court thirty Shillings and nine pence.

Execution issued May. 7^o 1677.

Freemen Sworn

Benjamin Emmons of Boston and John Holton of Dedham both tooke the Oath of Freedom.

PETER Negro Sentenced

Peter Thomas Batts Negro convict of assailing James Lendall, and his Sons in the highway as they were about theire lawfull occasions: The Court Sentenced him to bee severly whip't with twenty Stripes and to pay charges of prosecution and fees of Court standing committed &^a

MAN Sentenced

John Man complained of by Judith Platts his Servant for wanton and lascivious carriages towards her & cruell beating of her: The Court having heard & considered what was alleaged and proved ag^t him Sentenced him to give in bond with Sureties of two hundred pounds for his good behavior untill the next Court of this County and to pay charges of prosecution and fees of Court standing committed &c. as also to discharge Judith Platts of the prison; and the Court declare her to bee free from her Jndenture.

HOLLIS Sentenced

John Hollis of Weymouth presented upon suspition of killing other folkes Sheepe in a felonious way: The Court having heard & considered of what was alleaged & proved against him Sentenced him to bee whip't with twenty Stripes and to pay charges of prosecution & fees of Court standing committ^d &c. as also to pay the Constable his charges in bringing him and his wife to Boston upon their running away before they had fulfilled the order of the Court.

HOLLIS Sentenc^d

Elisabeth Hollis wife of the s^d John Hollis presented for abusive carriage to her Sister the wife of Richard Rust to the hazard of her life; also upon suspition of killing other folkes Sheep in a felonious way: The Court having heard and considered of what was [441] alleaged and proved against her, Sentenced her to bee whip't with thirty Stripes, twenty at Boston and ten at Weymoth a fortnight after and to pay charges of prosecution & fees of Court standing committed &c.

KINGSBURY Fined. 40^s

Eleazer Kingsbury and Judith his wife formerly Judson convict by their own confession in Court of committing Fornication before marriage: The Court Sentenced them to bee whip't with Fifteen Stripes apeece or to pay Forty Shillings in mony fine to the County and fees of Court standing committed &c.

SIMMONS Fined. £8.

Robert Simmons convict by Jndian accusation & his own confession in Court of buying a quart of Rum and delivering it to Joseph an Indian in two quart bottles which were filled up with water. The Court Sentenced him to pay Eight pounds in mony fine to the County according to Law and fees of Court standing committ^d &c.

[S. F. 1590

To the Right Hono^{rab}le John Leveret Esq^r Governo^r And the Honord Generall Court now Sitting in Boston, the Humble Petition of Robert Symons Servant to M^r John Conney

Humbly Sheweth

That where as yo^r poore Petition^r, Being a stranger in this Country & not acquainted with yo^r wholesome lawes, was Justly Adjudged vpon the twentie fourth

of Aprill last past, in A senten[ce &] fyned Eight pounds by the Hono^rd Countie Court, for Selling of Lyquor to an Indjan which was Contrary to Law, for which J am very Sorrey, And J make bold to beseech yo^r hono^s, to take into yo^r most wise Consideration that thereby, J may finde & Receiue Some favour from you, that if yo^r Hono^s See meete my fyne may be remitted or Some part thereof, otherwise J am Lyable to be Longer a Servant to my master Conney, then by Indenture J am now bound So hoping yo^r hono^s, will accept of this my humble Petition & grant my request, you will as J am in dutie bound & obleiged for yo^r hono^s prosperitie foreuer to pray,

So J am yo^r humble Servant

Robert simmons

Dated in Boston the 25th of May 1677

The Deputy[s] Doe not Judge meete to graunt this pet, wth refference to the Consent of the Hono^rd magists hereto

William Torrey Cleric.

Consented to by y^e magists

Edw^d Rawson Secret]

MIRIAM Negro Sentenc^d 40^s

Miriam Negro Serv^t to John Pynchon jun^r convict in Court by her own confession of committing Fornication & having a bastard Childe, Shee chargeing one Cornish an English man to bee the Father of it: The Court Sentenc^d her to bee whip't with ten Stripes or to pay Forty Shillings in mony fine to the County and Fees of Court standing committ^d &c.

MAREA Negro Sentenc^d

Marea Negro Serv^t to m^r Simon Lynde convict by her own confession in Court of committing Fornication and having a bastard Childe: The Court Sentenc^d her to bee whip't with ten Stripes or to pay Forty Shillings in mony fine to the County standing committed &c.

BELCHERS bond forfit^d £.20. p^d

Joseph Belcher convict by sundry testimonies & his own confession in Court of keeping company with Waitstill Spur after his being cautioned by the Court and since the time of his being bound to his good behaviour especially to forbear her company: The Court declared his & his Sureties bond of £.200. to bee Forfited and Sentence him to remain in prison untill hee Satisfy the s^d Forfiture and pay fees of Court: Upon his humble petition The Court ordered his Release upon the payment of twenty pound in mony down and respite the Execution of the Remainder.

SPUR Fin^d £.10

Robert Spur convict in Court of suffering Joseph Belcher to have recourse to his house and to keepe company with his daughter Waitstill after the Court had cautioned him thereof: The Court Sentenced him to pay ten pounds in mony fine to the County and fees of Court standing committ^d &c.

SANDIFORD to CASEY

Henry Sandiford personally appearing in Court april. 24^o 1677. confessed judgement ag^t his Estate & person to John Casey of Boston for Fifteen pound ten Shillings mony

Execution issued. may 7th 1677. [442]

HALL to HARRISON

Ralph Hall personally appearing in Court. 24^o April. 1677. acknowledged judgement against his Estate & person unto William Harrison for Seven pound Sixteen Shillings nine pence in mony.

Execution issued. april: 25^o 1677 @

SANFORD to WHEELER

Sarah Sanford Executrix of the last will of her late husband John Sanford dec^d personally appearing in Court April: 25^o 1677. confessed judgement ag^t her Estate and person unto Cap^{tn} Timothy Wheeler for Fifty pounds to bee paid in mony according to bill on file.

Execution issued. may. 7^o 1677.

Order to Hingham Selectmen

Upon complaint made to this Court by Captⁿ Joshua Hubbard of Hingham that the Select men of their Town had rated him for an Estate which was then out of the Country: The Court Orders the Select men to give him releife therein or otherwise to appeare before the Court to shew a reason for their so doing.

Wood his Guardian

Eleazer Wood Son of Nicholas Wood late of Boggastow appearing in Court made choise of Ensigne Samuel Bullen of Meadfeild to bee his guardian; which hee accepted & the Court approved of: And

the s^d Bullen acknowledged himselfe bound in Court unto the Treasuror^r for the County of Suffolke in Six hundred pounds for the faithfull discharge of his trust according to law and for the payment of the s^d Eleazer his portion when hee comes of age.

MINOT his Estate Setled

For a Setlement of the Estate of the late Stephen Minot dec^d The InVENTORY of the Estate amounting to. £.644. hee leaving three Children being daughters. The Court Orders the Estate to bee divided into four equall parts between True Cross his Relict and the Children the widdow to take her part out of the movables so far as they will reach, the debts to bee paid out of the whole Estate, and the widdow to have the improvem^t of the whole for the bringing up the Children till they come of age to choose guardians.

CURTICE his Estate Setled

For a Setlement of the Estate of the late Phillip Curtice of Roxbury dec^d It is Ordered that his widdow Obedience Curtice have the whole Estate to her Selfe and her heires for ever; Shee paying all debts, and paying unto the Seven Children left by s^d Curtice as they come of age the Summes following: To the eldest Son ten pounds and to the rest of the Children five pounds apeece.

ATHERTON forfit^d £.20. and again put und^r a penalty

Jonathan Atherton presented for staying from his wife contrary to Law, hee having been formerly presented for the same and put under a penalty of twenty pounds according to Law to return by the next oppertunity, there having been severall oppertunities since which hee [443] hath omitted. The Court declares that hee hath Forfited twenty pound and again order him to return to his wife by the next oppertunity of Shipping under the like penalty.

SMITH Sentenced

Anne Smith complained ag^t by Ephraim Turnor for stealing severall peices of linnen from him, which were found with her, Shee having fled for it, and the s^d Turnor giving his Oath that it was his linnen which was valued at Seven Shillings: The Court Sentenced her to

pay to the s^d Turner Fourteen Shillings in mony being. 3^{ble} damages according to law, the linnen being returned again & to pay charges of prosecution and fees of Court standing committed &c.

NAYLOR & LEVERETT Fin^d

Edward Naylor and Hudson Leverett bound over to this Court to answer for there being abroad by night upon the third instant; in which night were sundry disorders & riots committed; they owned they were abroad that night & seen by the watchmen; but denied the doing of any damage The Court having considered of what was alleaged against them and what themselves own^d Sentenc^d them to pay five pounds apeice in mony fine to the County & fees of Court and order that they pay all such just damage as shalbee made out by any person who suffered any damage that night.

GRIDLY'S Guardian

The Court appointed Joseph Gridley to bee Guardian unto the three Children left by Beleife Gridley his Brother viz: Benoni Mary & Bethiah; and order him to looke after the Estate.

LOVELS discharge

John Lovell Senio^r of Weymouth upon proclamation made was discharged from his bond for the good behavio^r

SHEFFEILD Sentenced

Anne Sheffeild convict by her own confession in Court of selling drinke without Licence; Sentenced to pay five pounds in mony fine to the County and to give in bond with Sureties of Forty pounds for her good behavio^r especially not to transgress the law in the like kinde & to pay fees of Court standing committed &c.

Crow Fin^d £.5.

Christopher Crow, convict of Selling brandy without licence Sentenced to pay five pounds in mony fine to the County according to law and fees of Court standing committ^d &c. and the Court declare that if hee transgress the law in the like kinde for the future hee shall forfeit his licence.

NORDEN Fin^d £.5.

Samuel Norden convict of Selling brandy without licence Sentenced to pay five pounds in mony fine to the County according to law & fees of Court standing committed &c. and the Court declare that if hee transgress the law in the like kinde for the future hee shall forfeit his licence. [444]

Boston Licences for the yeare. 1677.@

John Viall Senior upon certificate from the Select men had licence granted him to keepe a house of publike Entertainm^t for the yeare insuing & to Sell wine beere & Cider by retaile; who gave bond for his due observance of the laws respecting Inkeepers & that hee would not retaile Cider at more then two pence per quart.

John Turnor was also licensed to retaile wine beer Cider and Brandy; who gave alike bond & that hee would not sell any Brandy to the Inhabitants of the Town to drinke it in his house.

Cap^{tn} W^m Wright was also Licenced to retaile wine beere and Cider; who gave alike bond.

W^m Kent, was also Licensed to retaile wine, beere and Cider; who gave alike bond.

John Keen was also Licensed to retaile wine, beere and Cider; who gave alike bond.

Clement Gross was also Licensed to retaile beere & Cider who gave alike bond.

Tho: Sexton was also Licensed to retaile beere & Cider who gave alike bond.

Tho: Bill was also Licensed to retaile beere & Cider who gave alike bond.

W^m Norton was also Licensed to retaile beere & Cider who gave alike bond.

Andrew Neale was also Licensed to retaile beere & Cider who gave alike bond.

Samuel Norden was also Licensed to retaile beere and Cider, who gave alike bond.

William Pollard was also Licensed to retaile beere and Cider; who gave alike bond.

Francis Hudson was also Licensed to retaile beere & Cider; who gave alike bond.

Christopher Crow was also Licensed to retaile beere and Cider who gave alike bond.

Robert Cox was also Licensed to retaile beere and Cider; who gave alike bond.

Benjamin Phippen was also Licensed to retaile beere and Cider; who gave alike bond.

Constance Mattox was also licensed to retaile beere and Cider; who gave alike bond.

Jane Bernard was also Licensed to retaile beere and Cider; who gave alike bond. [445]

Widdow Wardell was also Licensed to retaile beere and Cider;

Widdow Frankes was also Licensed to retaile beere and Cider

Nathanael Bishop was also licensed to retaile beere & Cider who gave bond for observance of the laws etc.

Benjamin Brisco was licensed to retaile Strong waters who gave bond for his observance of the laws and that hee would suffer the Inhabitants of the Town to drinke in his house.

Tho: Smith was also licensed to retaile strong waters who gave alike bond.

Joseph How was also Licensed to retaile strong waters who gave alike bond.

Anne Puglice was also Licensed to retaile strong waters, who gave alike bond.

John Sparrey was licensed to Sell Coffee; who gave bond not to exceed his licence & to keepe good orders.

Rebecca Winsor was also licensed to retaile beere and Cider; who gave bond for her observance of the laws etc.

[Licenses of other towns]

Nathan Bradley of Dorchester was also licensed to retaile Cider; who gave bond for his observance of the Laws etc.

Elisabeth George of Dorchester was also licensed to retaile wine beere and Cider who gave bond for her observance of the laws etc.

L^t Samuel Ruggles of Roxbury was also licensed to retaile wine beere & Cider; who gave alike bond.

Joseph Dyer of Weymouth was also licensed to retaile wine beere and Cider; who gave alike bond.

John Jacob of Hingham was also licensed to retaile wine beere and Cider; who gave alike bond.

Nathanael Beale of Hingham was also licensed to retaile wine beere and Cider untill the next Court of this County, who gave alike bond.
[446]

GREEN to SHRIMPTON

William Green appeared before John Leverett Esq^r Gov^r and Edward Tyng Esq^r assist. June. 16^o 1677. and confessed judgement ag^t his Estate & person to Samuel Shrimpton Merchant for nine pounds ten Shillings mony according to bill on file.

as attests. Js^a Addington Cler

Execution issued. June. 20. 1677.

MEADER to TOMLIN

John Meader of Boston Blockmaker personally appearing before John Leverett Esq^r Gov^r & Edw^d Tyng Esq^r Assist. July. 21^o 1677. confessed judgement against himselfe and Estate unto William Tomlin Blockmaker for One hundred pounds in mony part due by bill on file, and part upon other accounts and contracts.

as attests. Js^a Addington Cler

Execution issued July. 23^o 1677.

At a County Court held at Boston July. 31^o 1677.@

Present

JOHN LEVERETT Esq^r Gov^r

SIMON BRADSTREET Esq^r

EDWARD TYNG

THOMAS CLARKE } Esq^{rs}

JOSEPH DUDLEY }

Grandjury Sworn

m^r W^m Sumner

Tho: Blighe

Tho: Dewer

John Scarlett

Nathan^{ll} Greenwood

John Harrison

John Stebbins

Edward Morris

Richard Baker

Henry Crane

Edm^d Quinsey

John King

Edm^d Hobart

Edm^d Pitts

John Lorin

Timothy Dwight

Joseph Clarke

Jury of Tryalls Sworn

m^r Sampson Sheafe

Penn Townsend

Benjⁿ Thurston

Abiel Lamb

Sam^{ll} Badcock

Christopher Webb

Jonas Humphery

Thomas Gill

John Tower

Daniel Pond

Robert Allyn

Jn^o Thurston Sen^r

m^r Sheafe & m^r Townsend taken off the Jury in m^r Sheafes case and added in their room Nathan^{ll} Reynalls John Conney

[FOX v. COLEMAN]

Nathanael Fox plaint. ag^t William Coleman Defend^t John Comer Attourney to the plaint. withdrew this action

[HAWFORD v. SCOTTO and ENDICOTT]

Samuel Hawford plaint. ag^t John Scotto & John Endicot Exec^{rs} of the last will and Testam^t of Andrew Sheppard Defend^t in an action of the case for taking into their charge one quarter part or so much as may appeare of the Barque Thomas and Mary that belongs to s^d Hawford and giving no account to the plaintife of the disposing or Selling of the Barque or of her voyages or Earnings whereby the plaintife is damnified Fifty pounds or thereabouts in mony with all other due damages etc. . . . The Jury . . . found for the Defend^{ts} costs of Court allowed three Shillings and ten pence.

[See Alford v. Endicott, above, p. 426.]

[ROCK v. GREEN]

Joseph Rock Adm^r to the Estate of m^r John & m^{rs} Martha Coggan dec^d plaint. ag^t Jacob Green jun^r Defend^t The plaint. withdrew his action.

[ARMITAGE v. FRANKLIN]

Timothy Armitage plaint. ag^t Benjamin Francklyn Defend^t in an action of the case for refusing to deliver possession of a house and land scituated and being in Boston wherein the s^d Francklyn at present Liveth which was once the Estate of Richard Richardson but now the proper Estate of the afores^d Timothy Armitage by virtue of a deed of gift from s^d Richardson Father in Law to s^d Armitage with all other due damages &c [447] . . . The Jury . . . found for the plaint. that the Defend^t give him possession of the house & land Sued for within a month next following or pay two hundred pounds mony & costs of Court.

WATTS ag^t BALLARD

Michael Watts of London or his certain Attourney plaint. Jarvis Ballard Defend^t in an action of the case for not paying the Summe of twenty three pounds twelve Shillings mony of England due upon the ballance of Acco^t by booke with due interest and all other due damages according to attachm^t dat^d July. 17^o 1677. . . . The Jury . . . found for the plaintife twenty nine pounds ten Shillings mony and costs of Court The Defend^t appealed from this Judgem^t unto the next Court of Assistants and himselfe principall in £29: and John Winslow and Samuel Winslow Sureties in £15. apeice acknowledged themselves respectiuely bound . . . on condition the s^d Jarvis Ballard should prosecute his appeale . . .

[Ballard's Reasons of Appeal are in S. F. 1625. The Court of Assistants (Records, i. 100) gave him no satisfaction.]

DAVIS ag^t FLOYD

Benjamin Davis Attourney of John Harwood Sen^r of London plaint. ag^t the goods or Estate of Noah Floyd Defend^t in an action of the case for that the s^d Floyd doth not pay unto the s^d Harwood or his order the Summe of one hundred pounds lawfull mony of England

due upon the Forfiture of a bond dated the. 16th of June. 1676. under the hand & Seale of s^d Floyd with all other due damages &c. . . . The Jury . . . found for the Defend^t costs of Court.

DEANE agt. KEEN

Thomas Deane of Boston Merchant plaint. ag^t John Keene of Boston Jnkeeper Defend^t in an action of debt for Fifty three pounds Eighteen Shillings & six pence in mony due upon the ballance of acco^{ts} with all due damages &c. . . . The Jury . . . found for the plaint. Fifty three pound Eighteen Shillings Six pence mony and costs of Court. [448]

COMER ag^t PECK

John Comer plaint. upon replevin ag^t Tho: Peck Senio^r Defend^t The replevin and Evidences in the case produced being read & committed to the Jury, which remain on file with the Records of this Court The Jury brought in there verdict they found for the plaint. the Shallop in controversy and costs of Court.

MACKDANIEL ag^t HALE

Dennis MackDaniel plaint. ag^t Mary Hale widdow Defend^t in an action of assault and Battery, for that the s^d Hale came to the house of the s^d MackDaniel Struck his wife and Strugled with her &c. whereby the plaint. is damnified very much with all other due damages &c. . . . The Jury . . . found for the plaintife three Shillings four pence damage & costs of Court allow^d twenty Shillings and ten pence.

MACKDANIEL ag^t HALE

Dennis MackDaniel and his wife plaint. ag^t Mary Hale widdow Defend^t in an action of defamation for saying the wife of s^d MackDaniel was a whore and that Shee had severall Children by other men and that the Cuckoldley old Rogue her husband owned them wherein the plaintifes are very much in there names defamed and greatly damnified with all other due damages &c. . . . The Jury . . . found for the plaint. ten pound mony damage or that the Defend^t make an acknowledgem^t to Satisfaction of the Court in open Court & costs of Court allow^d Sixteen Shillings Eight pence.

Execution issued aug^o 10th 1677.

BILLING ag^t RAWSON

Roger Billings plaint. ag^t William Rawson Defend^t in an action of the case for breach of his promiss upon a bargain of Land by refusing to give a legall deed of the twelfth part of the Farme s^d Billings Lives on called Newberry Farme whereby the plaintife is greatly damnified with all other due damages according to attachm^t dat^d July. 24^o 1677. . . . The Jury . . . found for the plaint. that the Defend^t do give him a good sufficient legall deed of Sale of the twelfth part of the Farme s^d plaint. lives in called Newberry Farme and other lands mentioned according to promiss within one month or to pay two hundred pounds mony and costs of Court. [449] The Defend^t appealed from this Judgement unto the next Court of Assistants and himselfe principall in £.200. and John Woodmansey and Joseph Webb Sureties in £.100. apeice acknowledged themselves respectuely bound . . . on condition the s^d William Rawson should prosecute his appeale . . .

[See case of Rawson v. Billing, above, p. 543, and Records of Court of Assistants, i. 96.]

HAWFORD ag^t SCOTTO etc.

Samuel Hawford plaint. ag^t John Scottow and John Endicott Executo^{rs} of the Last will & Testam^t of Andrew Sheppard dec^d Defend^{ts} in an action of the case for not paying the Summe of thirty Seven pounds one Shilling in mony due from s^d Scotto and Endicot as Exec^{rs} aboves^d to the now plaint. for one third part of a parcell of Logwood that was brought from Treice in the Katch Industry Nathan¹¹ Man Commander in the month of January. 1675. which was Ship't by the plaint. & ventured on his own acco^t but Andrew Sheppard his order or Exec^{rs} have Sold it and received the mony but yet detaines it whereby the plaint. is greatly damnified with all other due damages &c. . . . The Jury . . . found for the Defendants costs of Court allowed ten Shillings and four pence.

[See second case at this session, above, p. 816.]

MEADER agt. ROSE

John Meader plaint. ag^t Roger Rose Defend^t in an action of the case for not performing a bargain made with s^d Meader last Spring

whereby s^d Rose did engage himselfe to bring for the plaint. from Oyster River about fifteen or Sixteen cord of timber &c. but hath not performed his bargain whereby the plaint. is damnified about five pounds with all other due damages &c. . . . The Jury . . found the case not actionable and gave the Defend^t costs of Court allow^d £.1:4.2.

Execution issued 8^{br} 20^o 77.

ROSE agt. MEADER

Roger Rose plaint. agt. John Meader Defend^t in an action of the case for non performance of his promiss which was to pay the summe of four pound in mony & four pound in goods for the Freight of a Boate load of timber brought by s^d Rose from Oyster River and delivered to s^d Meader as per his receipt bearing date the 19^o of April. 1677. appeareth with all other due damages &c. . . . The Jury . . . found for the Defend^t costs of Court 11^s 6^d

Execucion issued 8^{br} 20^o 77. [450]

GLOVER ag^t HUDSON

John Glover plaint. ag^t Cap^t William Hudson in an action of debt of Seven pounds in mony due by bill with damages &c. The action being called the plaintife not having his bill to produce the attachm^t onely was committed to the Iury, who found for the Defend^t costs of Court.

WOODWARD ag^t ALDRICH: etc.

Peter Woodward plaint. on appeale from the Judgem^t of the Commission^{rs} of the Town of Dedham 28^o May 1677. ag^t Thomas Aldrich, John Coleburn, John Aldis Jonathan Gay, Joseph Wight &c. Defend^{ts} The Courts Iudgement Reasons of appeale and Evidences in the case produced being read & committed to the Iury which remain on file with the Records of this Court: The Iury brought in theire verdict they found for the plaint. Reversion of former Iudgement and costs of Court.

SHIPPEN ag^t DAVENPORT

Edward Shippen or his lawfull Attourney plaint. ag^t Elisabeth Davenport Relict of and Adm^s to the Estate of Nathanael Daven-

port dec^d Defend^t in an action of the case for not paying the Summe of one hundred and thirty pound in mony due upon the forfeiture of a bond bearing date the. 5th of Nov^r 1675 under the hand and Seale of s^d Nathan¹¹ Davenport with all other due damages according to attachm^t dat^d Iuly. 11^o 1677. . . . The Iury . . . found for the pl^t forfeiture of the bond one hundred & thirty pounds mony and costs of Court: On request of the Defend^t the Court chancered this Forfeiture besides what hath already been paid unto Sixty five pound one Shilling mony and costs of Court: The Defend^t appealed from this Judgement unto the next Court of Assistants & herselfe principall in £.65. Thomas Thacher Junio^r and John Morse Sureties in £33. apeice acknowledged themselves respectiuey bound . . . on condition the s^d Elisabeth Davenport should prosecute her appeale. . . .

[Copy of attachment and attorney Hudson Leverett's Bill of Costs are in S. F. 1617.]

MIDDLECOTT ag^t SCOTTO etc.

Richard Middlecott as hee is Attourney to W^m Adams Adm^r to the Estate of In^o Sheppard dec^d in the right of Elisabeth Adams Executrix to the last will and Testam^t of him the s^d In^o Sheppard plaint. ag^t In^o Scotto and In^o Endicot Exec^{rs} to the last will & testam^t of andrew Sheppard dec^d Def^{ts} in an action of the case for withholding an Estate amounting to the Summe of three hundred Forty nine pounds Eight Shillings [451] and eleven pence given and bequeathed unto her the s^d Elisabeth Executrix by him the s^d John Sheppard dec^d in his last will and Testam^t which Estate afores^d was given him by his Brother Andrew Sheppard dec^d as per his last will and Testam^t may appeare with other due damages according to attachm^t dat^d Iuly. 23^o 1677. . . . The Iury brought in a Speciall verdict. i. e. If the Law bee that where there is an Executrix appointed to an Estate that another may take out Administracion in her right wee finde for the plaint. that the Def^{ts} doe deliver up the whole Estate of Andrew Sheppard of Boston lately dec^d that is or may bee received by them before the time hereafter limited debts Legacies and charges being deducted unto the plaint. at or before the first day of Decemb^r next or three hundred Forty nine pounds eight Shillings eleven pence mony & costs of Court: But if the law bee otherwise wee finde for the

Def^{ts} costs of Court. The Magistrates on perusall of this verdict finde for the plaint: The Defend^{ts} appeal^d from this Iudgem^t unto the next Court of Assistants and themselves principalls in £.400. and Nathan^{ll} Williams and W^m Coleman Sureties in £.200. apeice acknowledged themselves respectiely bound . . . on condition the s^d John Scotto and Jn^o Endicot should prosecute theire appeale . . .

[Another claimant to the Shepard property; cf. *Alford v. Endicott*, above, p. 726. The following portion of Middlecott's Answer to Scottow's Reasons of Appeal (S. F. 1657.3) refers to the title "Jurors" in the General Laws and Liberties of 1672:

1. Answer, whereas the Appealants is pleased to tax the Jury with Error, but if they please well to Consider they will find themselves to Erre by a Misunderstanding the Law they pretend So much to make for them, for the Honoured Law Makers have given their Sence fully in Each Sect: which is Cited for the End intended which makes not for the Appealants purpose nor will it bear their Strained Paraphrase or far-fetch Construction, for the Law Saith Sect. 3. that in all Cases wherein the Law is obscure So as the Jury cannot be Sattisfyed therein, they have liberty to present a Special Verdict &c. it doth not Say provided they doe first ask advice of any Man in open Court, but if the Jury be not Satisfyed they have Such a Liberty.

2. As to the Law in Sect. 5 it doth not absolutely require or Compel but onely gives a liberty (in Case of Conscience or Such like) to any Jury if they See cause to aske advice of any man in open Court as aforesd then there is no Error in the Jury in not So advising as the Appealants infer.

The Court of Assistants (Records, i. 96) confirmed the former judgment.]

COOKE agt. THORNTON

Robert Cooke Hornbreaker plaint. ag^t Joseph Thornton Marrin^r Defend^t in an action of the case for that the aboves^d Thornton did in a clandestine manner take and convay away a man Servant belonging to the afores^d Cooke known by the name of Henry Austin the which s^d Servant was convayed in the yeare. 1676. which is to the plaintif's damage at least Sixty pounds in mony and all other due damages &c. . . . The Iury . . . found for the plaintife Fifty pounds mony damage and costs of Court allowed. £.2:10:4.

Execucion issued Aug^o 3^d 1676.

MORE agt. WARREN

Richard More of Boston Junio^r plaint. ag^t Humphry Warren of Boston Merchant Defend^t in an action of the case for not paying the

Summe of twelve pound eight Shillings and nine pence due as the ballance of an Acco^t of wages in the Katch Hopewell on her voyage from this place to Barbados and to this place again in part of the yeare 1676. and part of this present yeare. 1677. on w^{ch} voyage s^d More was Master of the s^d Katch with all other [452] due damages etc. . . . The Iury . . . found for the plaint. twelve pound Eight Shillings nine pence mony and costs of Court allow^d twenty one Shilling six pence.

WALKER ag^t ELLIS

Jsaac Walker plaint. ag^t Edward Ellis Defend^t in an action of the case for that the s^d Ellis did Sell to the s^d Walker a parcell of Land as by deed of Sale doth appeare under the hand and Seale of the s^d Ellis warranting the same, for which land the s^d Ellis received of the s^d Walker Forty pounds in mony, and cannot warrant the Sale thereof, it being given by will after his the Ellis decease unto his Children, being above Forty pounds in mony damage to the plaint. and all other due damages etc. . . . The Jury . . . found for the Defend^t costs of Court.

EVANS ag^t BOAREMAN

Agnus Evans adm^x of W^m Evans dec^d plaint. against Daniel Boareman Defend^t in an action of Reveiw of a case tried at the County Court held in Boston in January Last wherein the now plaintife was then cast by falacious papers and meere pretences of payment of and towards a debt of One hundred pounds due by bill bearing date X^{br} 20th 1665. under the hand and Seale of s^d Boareman whereby the now plaint. is greatly damnified with all other due damages etc. . . . The Jury . . . found for the plaint. twenty three pound thirteen Shillings six pence (£.5:1:6. cattle and £.18:12:0. in wheate Rye barley and Malt according to bill) debt and twelve pound Eighteen Shillings, halfe cattle the other halfe corn as afores^d damages and costs of Court allow^d £.2:19:2.

Execucion issu'd aug^o 7th 1677.

SUTTON ag^t WOODCOCK

John Sutton of Scituate Carpenter plaint. ag^t William Woodcock of Hingham Defend^t in an action of the case to the value of One

hundred pounds for that the s^d Woodcock in the month. of aug^o 1676. did apprehend the s^d John Sutton upon his own land at Connihasset in hingham and delivered him the s^d Sutton as a Felon to the Constable of Hingham and was so carryed by the s^d Constable to Boston before authority, the s^d Woodcock chargeing the s^d Sutton with Stealing his hey or grass whereby the s^d Sutton is defam^d with all due damages etc. . . . The Jury . . . found for [453] the plaint. six Shillings eight pence mony damages & costs of Court allowed thirty four Shillings ten pence.

WARREN agt. MORE

Humphry Warren plaint. ag^t Richard More Iunio^r Defend^t in an action of the case for that the s^d Richard More late Master of the Katch Hopewell did in the month of August last fraudulently take to himsef wages for Richard Earle who ran away from s^d Vessell in Barbados some weekes before not proceeding the Voyage hee was Ship't for with due damages etc. . . . The Iury . . . found for the Defend^t costs of Court allow^d Eleven Shillings ten pence.

GREEN agt. VICARS

William Green plaint. ag^t George Vicars of Nantasket Senio^r Defend^t in an action of the case for refusing to give an acco^t of Fifteen hundred Cod Fish put into his hands by the order of s^d Green whereby the plaint. is very much damnified with other due damages etc. . . . The Jury . . . found for the Defend^t costs of Court allow^d nineteen Shillings 6^d

Execution issued. 22^o aug^o 1677.@

FREAKE ag^t STONE

Elisabeth Freake adm^x to m^r John Freake plaint. ag^t John Stone Defend^t the plaint. withdrew her action upon Judgem^t acknowledged.

HIGGS ag^t SCOTTO etc.

Edward Higgs plaint. ag^t John Scotto and John Indicott Exec^{rs} of the last will of Andrew Sheppard Defend^t in an action of the case for not paying the summe of thirty Seven pound one Shilling in mony due from s^d Scotto and Indicott as Exec^{rs} aboves^d to the now plaint.

for one third part of a parcell of loggwood that was brought from Treece in the Katch Jndustry Nathan¹¹ Man Commander in the month of January. 1675. which was Ship't by Samuel Hawford upon the acco^t of Edw^d Higgs; but andrew Sheppard his order or Exec^{rs} have Sold it and rec^d the mony but yet detains it whereby the plaint. is greatly damnified with all other due damages &c. . . . The Jury . . . found for the Defend^t costs of Court allow^d 9^s 8^d

SMITH agt. GOULDING

Joseph Smith plaint. ag^t Peter Goulding Def^t in an action of defamation for Saying hee was a theife & upon Record for a theife, being greatly to the damage of the plaint. with all other due damages &c. [454]. . . . The Jury . . . found for the plaint. ten Shillings mony damage and costs of Court allow^d twenty Eight Shillings one penny. Execution issued aug^o 22^o 1677.

JOYLIFFE ag^t NICK

John Joyliffe Attourney of William Maund plaint. ag^t John Nick Defend^t in an action of the case for not delivering unto the order of s^d Maund three ton one hh^d one tearce of Molasses three barr^{11s} of Lime joice and a hh^d of Vinegar Ship't at S^t Christoph^{rs} by s^d Maund onboard the Barque Begining whereof s^d Nick was Ma^r and in s^d vessell brought to New-England sometime in April last and by him s^d Nick detained from the now plaint. who is thereby damni-fied about Forty pounds in mony with all other due damages &c. . . . The Jury . . . found for the plaint. two hogsh^{ds} of Molasses one barr¹¹ of Lime juice and one hh^d of vineger to bee deliurd in one month or to pay twenty pounds in mony and costs of Court allow^d thirty three Shillings and six pence.

CALLEY ag^t WILLIAMS

Hannah Calley Attourney to her husband Joseph Calley late Master of the Katch Loialty plaint. ag^t Nathan¹¹ Williams Defend^t in an action of the case for that the s^d Williams in the yeare. 1670. tooke into his custody from s^d Calley bills in Barbados for two thousand and two hundred pounds Muscovado Sugar being for the acc^o of s^d Owners; which s^d bills and Sugar the s^d Williams still detaines in

his hand refusing to make Satisfaction to the plaint^s great detriment with interest and all due damages according to attachm^t dat^d July. 14th 1677. . . . The Jury . . . found for the plaint. that the Defend^t do deliver the Sugar or bills Sued for within four months or pay Fifty pounds mony and costs of Court The Defend^t appealed from this Judgem^t unto the next Court of Assistants and himselfe principall in £.50. and John Walley and Joseph Webb Sureties in £.25. apeice acknowledged themselves respectively bound . . . on condition the s^d Nathanael Williams should prosecute his appeale . . .

[The file on this case yields a sheaf of business correspondence (S. F. 1618. 2, 4, 3):

M^r Henry Taylor &
Mrs Mehett^{ble} Downes

Barbadoes Aprill 28th 1671

These may Serue at present to advise that m^r Joseph Calley, Commander of your ketch, at his going from hence left me his attorney and ordered me to Send what J did receiue to you accordingly J haue now Sent you Three hh^{ds} of Rum as per bill of lading & Invoice incloased appeares, & J shall J Suppose receiue more goods to Send you, for the Same acco^t, in the meane time, with my respects to you both, J take leaue and Rest

Your humble Servant
Nath^l Williams

. . . true Coppie. per Js^a Addington Cler

Boston the 28th of Decemb^r 1672

M^r Nathanael Williams

After my kinde love vnto you hoping that these few Lines will finde you in as good health, as they do now leave me, praised be god for it, the Cause of my writing vnto you is, that my desire is that you will gett in them debts, that J did leaue with you you know what they are if you Can gett Mallassis doe, if not Rum or Sugar, or Cottonwoole, but if you Can gett mallassis pray doe. & gett it as Soone as possible you Can, for J do hope to See you about the midle of February, but if J am not there by that time J shall desire you for to Send them, home by the first oppertunity, that you Can, for if J am not there by that time J shall Come by the way of Virginia, and So it will be the Longer till J do Come, what you do Send, J shall desire you to Consigne it to m^r John Poole in Boston, So J haue nothing else to trouble you at present, but leaving you to God J rest.

Yours to Serue in what J Can
Joseph Calley

Copia Vera attest^r Js^a Addington Cler

Novemb^r y^e 30th 1674

M^r Nathanael Williams

J Expected you would ere this according to your promise haue bene with mee to haue Settled my adjus^t, but Since your occasions would not permitt you, and

that my vessell is going away, J request you will deliuer to the bearer, One hogsh^d of Rum, which J will allow vpon our acco^t, and if not So much due to me, the overplus shall be paid you in money, as now it is Sold by

Your friend to vse
Humphry Warren

M^r W^m Noyse

S^r Pray Deliuer to the bearer one barrel of rum, let the barrel be filled vp & take notice of the n^o & Contents of it & his receipt for the Same, on the acco^t of m^r Joseph Calley per order of m^r Humphrey Warren.

30th 9^{ber} 74

Yours: Nath^l Williams

Jf there be Two barrels. let him haue them both.

Copia vera attest^r Js^a Addington Cler

The Court of Assistants (Records, i. 95) reversed the former judgment and awarded 29s costs to Williams.]

[455] CHURCH agt. JOY

Joseph Church of Hingham Carpenter plaint. ag^t Thomas Joy of Hingham Carpenter Def^t in an action of the case to the value of twenty pounds; which s^d twenty pounds is due to the s^d Joseph Church for the rent of one halfe of a Corn Mill two yeares, the time of the s^d two yeares began on the. 14th day of June, which was in the yeare of o^r Lord. 1675. as may appeare by a covenant between them bearing date the. s^d 14th of June; which s^d Corn Mill is in partnership between the s^d Thomas Iay and the s^d Ioseph Church, the one halfe of the s^d Mill belonging to the s^d Ioseph Church, and the other halfe of the s^d mill belongeth to the s^d Thomas Ioy; which s^d Mill is a tide Mill standing and being in and upon the Town cove in Hingham with all due damages according to attachm^t dat^d Iuly. 24^o 1677. . . . The Jury . . . found for the plaint. Eleven pounds in Merc^a Corn according to Coven^t at price currant and costs of Court: The Def^t appeal^d from this Judgem^t unto the next Court of Assistants & himselfe principall in twenty pounds, Daniel Turell jun^r and Joseph Jay Sureties in £.10. apeice acknowledged themselves respectively bound . . . on condition the s^d Tho: Joy should prosecute his appeale . . .

[There are in S. F. 1633.4-7 a number of depositions as to who owned and operated the mill. Joy's Reasons of Appeal are in S. F. 1633.3, and Church's answer is in S. F. 1633.2. The Court of Assistants (Records, i. 96-7) confirmed the former judgment and charged Church with 53s costs.]

CONNEY etc. ag^t PROUTT

John Conney and John Indicott Attournys of Cap^t Samuel Mosely plaint. ag^t Timothy Proutt Jun^r Def^t The plaint^s withdrew theire action upon a judgem^t acknowledged unto them.

BARTHOLMEW agt. ARNOLD

William Bartholmew plaint. ag^t Joseph Arnold of Brantery Def^t in an action of debt of Eight pounds in mony due by bill with all other due damages etc. . . . The Jury . . . found for the plaint. Eight pounds mony according to bill and costs of Court.

Execution issued. 8th Aug^o 1677.

LOYD agt. BULLIS

James Loyd plaint. ag^t Phillip Bullis Def^t in an action of debt of ten pound twelve Shillings in mony due for goods sold and deliurd the wife of s^d Bullis as shall appeare by booke and bill under her hand with all other due damages &c. . . . The Iury . . . found for the Defend^t costs of Court. [456]

RUMMIN ag^t HUDSON

John Rummin plaint. ag^t Cap^t William Hudson Def^t in an action of the case for not paying the Summe of thirty one pound four Shillings in mony due for two yeares Salery at six Shillings per weeke with due interest and all other due damages &c. . . . The Jury . . . found for the plaint. twenty pounds mony and costs of Court allow^d Forty Shillings 6^d

Execucion issued Janur^o 12^o 1677

FREAKE ag^t ROBINSON

Elisabeth Freake adm^x of her late husband m^r John Freake dec^d or her lawfull Attourney plaint. ag^t Nathanael Robinson Def^t in an action of debt of Seven pound five Shillings in mony due by bill bearing date Feb^{ry} 8th 1671/72. under the hand of s^d Robinson with interest and all other due damages &c. . . . The Jury . . . found for the Def^t costs of Court: The plaint. appeal^d from this Judgem^t unto the next Court of Assistants and was bound to prosecute.

WATTS ag^t GENT

John Watts assigne of William Green plaint. agt. John Gent Def^t in an action of debt of Six pound four Shillings and five pence due in

fish or mony as appeares by bill bearing date. Septemb^r 16th 1676. under the hand of s^d Gent wth due damages &c. . . . The Jury . . . found for the plaint. Forfiture of the bill & costs of Court on request of the Def^t The Court chancered this Forfiture to Six pound four Shillings and five pence in fish or mony according to bill & costs of Court.

Execucion issued aug^o 25^o 1677.

CHEENY

Margaret Cheeny plaint. ag^t Thomas Cheeny Def^t The plaint. withdrew her action.

SHEAFE ag^t PALMER

Sampson Sheafe of Boston Merch^t plaint. ag^t Tho: Palmer now or late Master of the Katch Diligence Def^t in an action of the case for not delivering unto the s^d Sampson Sheafe in good order and wel conditioned according to the Obligation of his bill of loading a parcell of English goods or Merchandizes loaden onboard the s^d Katch at London by Philip French and Sampson Sheafe and consigned to the s^d Sheafe; but contrarily the s^d goods have rec^d much damage to the value of ninety two pounds ten Shillings in mony as may appeare by the Return of m^r Eliakim Hutchinson and John Wing persons mutually chosen by the s^d Palmer and Sheafe to veiw and judge of the s^d damage with other due damages accord. to attachm^t dat^d July. 13^o 1676. [457]. . . . The Jury . . . found for the Defend^t costs of Court. The plaint. appealed from this Judgem^t unto the next Court of Assist^s and himselfe principall in ten pounds, Joseph Rock and John Saffin Sureties in £.5. apeice acknowledged themselves respectively bound . . . on condition the s^d Sampson Sheafe should prosecute his appeale . . .

[S. F. 1627.2

To the Honnord County Court now assembled Sampson Sheafe Plaintiffe against Thomas Palmer Defend^t humbly declareth

That whereas the plaintiffe & Phillip French did in London Ship vpon the ketch Dilligence of Boston, master whereof Thomas Palmer, (Defend^t) bound for Boston in New England, Six bales of Merchandize, in good order & welconditioned, which in like good order and welconditioned was to be deliuered at the aforesaid port of Boston to the s^d Sheafe the Plaintiffe, or in his absence to m^r Peter Sergeant

as by bill of lading bearing date 22^d March 1676/7 may fully appear and whereas by the defect or insufficiency of the Said ketch or Negligence of the Said master & Seamen, the Said goods are very much damnified, Even to the apprehension of the Plaintiffe the Summe of One hundred & forty Pounds, yet Such was the desire of the Plain^t & as he deemed, the desire of the Defend^t also to make an amicable Conclusion, of the businesse, to which purpose they both mutually Chose m^r Eliakim Hutchinson & m^r John Winge to view Judg & determine the dammage, the Plaintiffe hath Sustained in the Said goods who accordingly having viewed the goods & Considered the premises & do Judge the dammage, to be Ninety two Pounds Tenn Shillings as by their award may appeare, to which the Plaint Submitts, but the Defend^t refuseth to Stand to their award, & pay to the plaintiffe the s^d Ninety two Pounds Tenn Shillings, pretending now it is the danger of the Sea, yet hath made no protest by the public notary according to Law, Nor hath the Said ketch receiued, any dammage in her hull Sailes or Riggins Spending her mast, or any such thinge Coming by the violence of the Sea, but only Common ware & tare & therefore the Defend^t ought to beare the dammage according to the law folio 97: Title marritime affaires, Sect 16. which Saith any ship [or] Vessel at Sea receauing dammage by the masters or marriners negligence, yet bringeth the masters goods home, & deliuereth them according to bills of ladinge, he shall receiue his freight, but if the goods be damnified, the master or marriners shall make good the dammage ¹ the benefit of which law the Plaintiffe humbly Craveth, who Subscribes himselfe

Yo^r honno^{rs} most humble Servant

Sampson Sheafe

Vera Copia attest^r Js^a Addington Cler

S. F. 1627.3

Robert Tresteene aged: fifty three yeares or thereabouts having bene Employed in Sea affaires, the Space of Thirty yeares, and being Entertained passenger, in the ketch Dilligence Thomas Palmer master, from old England, to New England On the Sixteenth day of Aprill 1677 there happened the dreadfulest Storme that ever J was in Since J was borne, in So much that we did not Expect to Saue, either the vessell or our lives And J do hereby Truly affirme that the men, belonging to the Said ketch, did for the most of the time, the Storme Continued, Stand vp to the knees, and Sometimes vp to the waste, in water at the Pumpe, with very much Jeopardy to be washed ouer board every moment, with many Such Eminent dangers of death, Also J doe affirme that it was my desire, that the Said Command^r would Cutt the mast by the board, and to Scudd before the winde & Sea hoping by Gods providence, thereby to Saue the vessell, as also our lives, which at that time J saw no ground probabillity or reason to bee Safely kept otherwise, But the master replied, he durst not Scudd for want of Searoome, & further this Deponent Saith not

Taken vpon Oath June 27th 1677

Before me Edwar Tyng ass[ist]

Captain Palmer was sustained by the Court of Assistants (Records, i. 98), and owner Sheafe had 9s 4d additional costs to pay.]

¹ The General Laws of the Massachusetts Colony (1672), pp. 97-8.

BRIDGHAM ag^t STILSON

Jonathan Bridgham Attourney of John Bridgham Exec^r of the last will of Henry Bridgham plaint. ag^t Vincent Stilson Def^t The plaint. withdrew his action

PHILLIPS ag^t LONG

William Phillips Senio^r plaint. ag^t Elisabeth Long and John Long Executo^{rs} to the last will of Robert Long or either of them Def^{ts} The plaint. withdrew his action

LEVERETT ag^t SOMES

Hudson Leverett Attourney for Darby Bryan plaint. ag^t John Somes Cooper Def^t in an action of the case for withholding the Summe of thirty one pound eleven Shillings and six pence or thereabouts in mony and halfe a barrell of Molasses at twelve Shillings & six pence with due damages &c. . . . The Jury . . . found for the plaint. Seventeen pounds fourteen Shillings mony and costs of Court allow^d thirty three Shillings ten pence.

Execution issued. aug^o 6. 1677.

GREENLEIFE to BRONSDON

Enoch Greenleife Senio^r personally appeared before John Leverett Esq^r Gov^r and Edw^d Tyng Esq^r Assist. July. 30th 1677. and confessed Judgem^t ag^t his Estate and person for twenty six pounds nine Shillings eight pence mony due unto Robert Bronsdon according to bill on file.

as attests. Js^a Addington Cler

SPOWEL to WALDRON

William Spowel Jun^r appearing in Court. 31^o July confessed Judgem^t ag^t his Estate and person for four pounds five Shillings mony according to bill on file with charges unto Jsaac Waldron. [458]

BARBER to TAY

Thomas Barber personally appeared before the Honored John Leverett Esq^r Gov^r and Edward Tyng Esq^r Assist. Septemb^r 19^o

1677. and confessed Judgem^t ag^t his Estate and person unto John Tay for the Summe of Five pound six Shillings three pence in mony due according to Acco^t on file.

Execution issued 7^{br} 20th 1677.

as attests. Js^a Addington Cler

CURTIS to VSHER

John Curtis of Roxbury personally appearing before the Honord John Leverett Esq^r Gov^r & Daniel Denison Esq^r Assist. 25^o Sept^r 1677. confessed judgement against his Estate and person unto Hezekiah Vsher &c. Executo^{rs} of the last will of m^r Hezekiah Vsher dec^d for the Summe of Forty one pound Fifteen Shillings eleven pence in mony in full ballance of all accounts.

as attests. Js^a Addington Cler

MATSON to HOLBEACH

Thomas Matson appearing in Court. 31^o July. confessed Judgem^t ag^t his Estate and person unto John Holbeach for Six pounds Six Shillings and eleven pence mony according to bill on file.

John Holbeach appearing in the Office. Aug^o 2^d 1677. acknowledged that hee was fully Satisfied by Thomas Matson for the abovewritten Judgem^t

as attests. Js^a Addington Cler

SAFFIN ag^t MIDDLECOTT etc.

John Saffin plaint. ag^t Richard Middlecott and John Walley or either of them Defend^{ts} in an action of the case for withholding of the Summe of thirteen pounds in mony due to him the s^d John Saffin by ingagem^t under the hands and Seales of them the s^d Middlecott and Walley bearing date Janu^{ry} 27^o 1676. being for paym^t of Rent due for a certain warehouse hired by Jacob Jesson of s^d Saffin with all other due damages etc. . . . The Jury . . . found for the Defend^{ts} costs of Court.

HOPPIN ag^t COOPER etc.

Thomas Hoppin plaint. ag^t Elisabeth Makepeace, Josiah Cooper and Waitstill his wife or either of them as they are Exec^{rs} to the last will of Thomas Makepeace Def^t in an action of the case for not paying

the Summe of ten pound with what else may appeare as a Legacy in the last will of s^d Makepeace to bee due to the plaint. with other due damages etc. . . . The Jury . . . found for the Defend^t costs of Court. [459]

PARMITER agt. SEVERANS

John Parmiter plaint. ag^t Samuel Severans Def^t in an action of debt of twenty pounds due by bill bearing date the. 24th October. 1676. under the hand and Seale of said Severans to bee paid in curr^t mony of New-England or merchantable boards at thirty five Shillings per thousand with all other due damages &c. . . . The Jury . . . found for the plaint. one quarter part of the Sloop increase being Forfiture of the bill & costs of Court Eighteen Shillings two pence.

Execution issued. 11th July. 1678.

SPOWEL to SCARLETT etc.

William Spowel Junio^r appearing in Court confessed Iudgement ag^t his Estate and person for five pound two Shillings six pence mony due unto John Scarlett Exec^r of the last will of Cap^t Sam^l Scarlett and Elisabeth Freake adm^x of the Estate of m^r John Freake dec^d

Execucion issued. aug^o 6. 1677.

HUDSON agt. SMITH

Cap^t William Hudson plaint. ag^t Joseph Smith Defend^t in an action of the case for not paying the s^d Cap^t Hudson twenty one pounds and thirteen Shillings or thereabouts in mony due by booke upon accompt from his late Father Francis Smith dec^d which s^d debt the s^d Joseph Smith hath legally made himselfe liable to pay by entring upon and possessing the Estate of his s^d Father contrary to law title wills, with interest & all due damages &c. . . . The Jury . . . found for the Defend^t costs of Court.

LIDGETT ag^t PAIGE

Charles Lidgett plaint. ag^t Nich^o Paige Def^t in an action of Reveiw of a case tried at the last County Court held at Boston for the Summe of £.243:02:0. good and curr^t mony of New-England due by bond under his hand and Seale bearing date. July. 20th 1676. with all other

due damages &c. . . . The Jury . . . found for the plaint. the Forfiture of the bond being. £.243:02:0. mony & costs of Court. The Court on request of the Def^t and hearing of the plaint. chancered this Forfiture to one hundred twenty one pound eleven Shillings mony & costs of Court.

HENCHMAN agt. MEADER

Cap^t Daniel Henchman plaint. ag^t John Meader Defend^t The plaint. withdrew his action. [460]

HUDSON agt. RUMMIN

Cap^{tn} William Hudson plaint. ag^t John Rummin Defend^t The plaint. was nonSuted upon non appearance.

DEANE ag^t WHITING

Thomas Deane assigne of Robert Noakes plaint. ag^t Joseph Whiting Defend^t The plaint. withdrew his action.

LEVERETT agt. LAWRENCE

Hudson Leverett assigne of William Phillips Senio^r plaint. ag^t Nicholas Lawrence Def^t in an action of debt of fourteen pound in mony due by bill under his hand bearing date the. 25th of January. 1676. with all other due damages etc. . . . The Jury . . . found for the plaint. Eight pounds mony and costs of Court allow^d twenty two Shillings.

Execucion issued aug^o 7^o 1677.

THACHER etc. Fined. 10^s apeice

The Court Sentenced m^r Tho: Thacher Iunio^r and Joshua Lamb to pay the Summe of ten Shillings apeice in mony as a fine for not attending to Serve on the Jury of Tryalls according to Summons.

PROUTT to CONNEY etc.

Timothy Proutt Iunio^r appearing in Court Aug^o 2^d 1677. confessed Judgem^t agt. his Estate and person unto John Conney Attourney of Cap^t Samuel Mosely and John Indicott, for twenty two pounds Eleven Shillings in mony.

Execution issued aug^o 9^o 1677.

STONE to FREAKE

John Stone of Salem appearing in Court aug^o 2^d 1677. confessed Judgem^t ag^t his Estate & person unto m^{rs} Elisabeth Freake adm^x to the Estate of m^r John Freake dec^d for thirty nine pounds Sixteen Shillings and ten pence in mony according to two bills on file.

Committee for dividing SHARP's Estate

The Court impowers Deacon W^m Parke and Thomas Gardner to make the division of the Estate of the late John Sharp of Muddy River according to the Courts Setlement thereof and to Set out the widdows part of one hundred pounds, in movables so far as they will reach and the rest in such part of the land as will not indamage the Childrens parts and to make their return to the next County Court.

BARBUR his Licence

Samuel Barbur of Meadfeild is allowed to keepe a house of publique Entertainm^t for the yeare insuing.

EVERDEN Fin^d £.5.

Walter Everden Iunior^r convict by his own confession in Court of committing Fornication with Ruth Lock: The Court Sentenced him to bee whip^t with twenty Stripes; upon his petition The Court remitted his punishm^t upon the payment of five pound in mony presently. [461]

MATHEWS whipt.

Grace Matthews convict in Court by her own confession of Jdleness, begging and lying: Sentenced to bee whipt with Fifteen stripes.

WHEELER Fin^d £.5.

Tho: Wheeler convict in Court by his own confession of Selling drinke without licence. Sentenced to pay five pounds in mony fine to the County according to Law & to give bond with Sureties of one hundred pounds not to transgress the law in the like kinde for the future standing committ^d &c.

SEAVER his Estate settled.

For a Settlement of the Estate of the late Nathaniel Seaver of Roxbury dec^d It is Ordered that Sarah his Relict have the whole Estate to improve for her own & her Childes maintenance, till the Childe come of age to choose a guardian, and that then the Estate bee equally divided between the s^d widdow & the onely Childe of the s^d Nathanael by her, the one halfe thereof to the use of the s^d Sarah and her heires for ever, & the other halfe to the use of the Childe.

Order for apprizall of HITTs Estate

It is Ordered that Nathanael Greenwood & W^m Greenough do apprise what Estate is now left that was formerly belonging to Eliphail Hitt, who dyed intestate & to make return to the next Court of this County upon their Oathes that so the s^d Estate may bee Setled and divided.

BARLOW her Guardian

Sarah Barlow daughter of Thomas Barlow sometime of Boston dec^d appeared in Court and made choice of Daniel Turill Senio^r and John Conney to bee her Guardians which they accepted of and the Court allowed they giving bond according to law.

MAN his discharge.

Upon due proclamation made John Man was discharged from his bonds for the good behavio^r

Freemen made.

William Gibson & Nathanael Barnes both of Boston tooke the Oath of freedom of this Colony.

BRIDGE his Estate Setled

For a Settlement of the Estate of John Bridge of Roxbury who dyed intestate. It is ordered that the whole movable Estate shalbee to the use of Prudence Bridge his widdow her heires and assigns for ever, and the improvem^t of all the lands for her own maintenance and Education of the Children left by s^d Bridge till the eldest come of age, and that then one third onely of the lands shalbee to the use of the widdow during her life and the other two thirds proportioned to

the Children, the eldest Son to have a double portion & at her decease the other third injoyed by her during life to bee alike proportioned among the Children.

BARTHOLMEWS discharge

m^r W^m Bartholmew by reason of age is discharged from attending upon ordinary traynings, hee keeping armes in his house according to law. [462]

HERRIS Fin^d £.5.

Thomas HERRIS complained of for selling Liquor to Indians and entertaining of them contrary to Law: The Court on consideration of what was alleaged & proved against him Sentenced him to pay five pounds in mony fine, charges of prosecution & fees of Court standing committed &c.

DRUREY Fin^d £.5.

Mary Druery presented to this Court by the Grandjury for refusing to live with her husband and being called Shee owned Shee did not live with him who is her outward husband The Court Sentenced her to pay five pounds in mony fine to the County & fees of Court standing committ^d untill the Sentence bee performed: The s^d Mary appealed unto the next Court of Assistants & her Selfe m^r Samuel Shrimpton & m^r E^m Hutchinson were bound for prosecution thereof.

[Mary had refused to live with her husband, despite an injunction from the Court of Assistants to do so (see above, p. 754). Filed with the case are numerous depositions respecting Hugh Drury's relations with both his wives, the first (S. F. 1644.9) being from his brethren of the church:

9:1:⁷/₈

The Testimony of Deacon Henry Allen and abel porter testifieth that Brother Drury did in the oppen Congregation declare his willingnes to live with his wife as A husband ought to live with his wife. and also at another meeting with four of the Brethren at goodman Daws his hous did promis that if shee would com to him Again what was Amiss in him should bee mended. shee being their present. many Arguments weer vsed by us to perswade her. but to litle effect as wee saw. shee was neare his dore and wee Could not perswade her to goe into his hous. So that wee Judg that Brother Drury haue don his utmost to perswade her to Returne but to no effect and forder saith not

Henry Alline
Abel Porter

S. F. 1644.5

Wheras wee vnderstand that our loveing and well Respected Brother Drury hath since the death of his Loveing wife our Dear sister mett with many troubles the which is no small greif but A great troubl to us. knowing how dear and tenderly loveing they lived together for above thirty years. to the great Content of our dear father and Mother now with the lord, and to the great satisfaction and content of all us her Brethren. and in all the discours private or bublick that ever wee had with our dear sister Drury. wee never vnderstood any such thing from her as now our loveing Brother Drury is charged with since her death. Neither did wee ever perceiv any dissatisfaction in any kind from our dear sister Concerning her loveing husband. but shee alwaies did expres A high esteem of him to the very day of her death Neither doe wee believ that which is Reported of him is true. Dated first october 1677

Henry Rice
Edward Rice
Thomas Rice
Joseph Rice
Beneman Rice

Elisebeth the wife of Henry Rice and Mary the wife of Thomas Rice having many times had secret Discours with our dear and loveing sister Lidia Drury. and such secret discours as is not meet heer to bee inserted. and as wee think. knew as much of her mind while shee lived as any two women did in New england. yet in all our discours with her wee did never apprehend any dissatisfaction in her husband but that she did take full content and satisfaction in her husband. Neither do wee beleiv that that is Reported of him is true

the mark e of elisebeth Rice

the mark m of Mary Rice

[*Endorsed:*]

Certificatte for Hugh Drury^s manhood. referred to further search & tryall

S. F. 1644.11

The Deposition of Lydia Cheeue's Aged fuety fowe^r yeares or therea[bouts] testifieth & saith that some yeares since hauing Discourse wth Lydia Drewry [the] form^r wife of Hugh Drewry vpon occasion in discourse sajd to mee that [she] might haue had more children then one if God had seene it good the which occasioned me to haue some speech with martha Cousens and shee told [me] that the wife of the sajd Drewry sajd to hir; that if the Case were now with [her] husband as it was forme^rly shee might haue more children as we[ll as] othe^r weomen, and she sajd hir husband went to England to gett helpe but Could Gett none.

Taken vpon Oath the 29th of 6th mo 1677 before mee Anthony Stoddard Commiss

S. F. 1644.12

Worcester

Boston 8th october 1677.

May it please the Hon^d

May it pleas the honnoured court, wheras it is testified by one of the witnesses. that my former wife should say that I went to England to gett help or cure for som distemper as I think her meaning is. if the court bee pleased to give mee my

oath. I will take it. that I never had any such thoughts in my heart. nor word in my mouth. Neither did I ever hear my wife speak such A word in my life. till I heard it out of goode Chevers her testimony in the court hous

S. F. 1644.10

The testimony of Nathaniell Bishop aged about seuenty years sayth meeting with Hugh Drury in the street [*torn*] to speake wth me about a distemper he was t[aken] with I asked him what it was he told me [*torn*] some thing that did issue out of his hinder [*torn*] that was very afflictive to him I asked him [*torn*] he had not the runinge of the reines he said [*torn*] he got a hurt with a great peece of timber [*torn*] a wraft by which this trouble came I told [*torn*] I feared he had broke some veine in his body it must either be the emrods veines or else the [*torn*] veines from which that euacuation came: [*torn*] him what couler the matter was [*torn*] from him he told me it was of a yellowis [*torn*] with a hot & iching nature, that was most [*torn*] in sommer time I told him I did conceiue it was som breach of the semenalls being from [*torn*] did proceed: he said to me he did beleue it di[*torn*] from thence, & further sayth not,

this was about fieve or six yeares since to [*torn*] best remembrance

Taken upon oath in [*torn*]

9.8.77.

Tho Dan [*torn*]

S. F. 1644.7

Rachell Harwood aged 56: testifieth & saith y^t

Seeing goodwife Drury, I asked her how she did, she said she was not well; I told her I did think she was with child; she said I was a simple woman for my thoughts; I asked her how old she was, she said not so old but that she might have children, I asked her if she knew any thing to y^e contrary, she said she did; for she said she never was with child since she had her son Iohn; & said alas my husband hath had a great weaknes upon him along time, & my care is what I shall do for him, as for children I thank the Lord I am content with my portion. And farther saith not.

S. F. 1644.8

The Deposition of Mary Drury aged fifty fouer years or ther abouts

[Te]stefyeth and saith; that she being marryed to Hew Drury, after [the] time of hir marrig I the said mary Drury loged with [him] six weekes or thear abouts, in wich time the said Hew Drury [nev]er had fellow ship with me as a husband thou he did indeuor [it] the two first nites I lay with him he in deuored it but he neuer had fellow ship with me, nor was abull; after the time aboue mentioned I had a Violent Case wich did disturbe him [*torn*] his rest, and by his Consent lay alone till my Case was seassed; and after I was better of my Case I loged with him [*torn*] monthes, in all wich time he neuer offered to haue fellow ship with me.

Taken upon oath in court 9.8^{br} 77.

Thomas Danforth

S. F. 26619.2

The Testimonie of William Dawes and Susanah his wife testifieth and saith That Leftenant Drury coming to our hous som time in Febreary last tould us that hee heard that his wife had som inclination to com hom to him. which wee

wee verry glad off and was willing to further the thing also hee desired my wife to be helpfull to him in the thing with his Daughter Mary Drury. my wife and Mary Drury addvised themselves to the said Leftenant Druryes wife. wher they found her as they thought prittie willing to hearken to them. and thier vpon she promised to meet with her husband at my hous. and shee did com and meet him their. hee kindly Sallutted her and tould her hee was glad to see her. and with[all] hee tould her if shee pleased to forgett all diffrances between them. hee would bury all and never mention anny thing. my Self and my wife and Mrs Winsloe being present. wee did vse the best Arguments wee could with her as god did inable us and by entreaties as much as we could. wee found but litle encouragment in the design. I tould her her husband had com three parts of the way and it was hard if shee would not meet him the other part. but at length shee tould her husband that some of the principal men of the town had advized her not to com. I tould her I thought their counsell was not of god but of sathan. and she went Away with that Resolution above mentioned. at which her goeing Away wee were all very sorry

Also my wife and I. by Brother Druries entreatie have gon and vsed all the Arguments wee could to perswade her to Return to her husband but could not perswade her to it this was severall times before the Above mentioned time. so that wee Judg Brother drury hes vsed all the means that hee posibl can to get his wife to Return to him

william Dawes
Sarah winsloe

the mark S D of susana Dawes

The following (S. F. 1644.14) is apparently a minute of the court in this case.

The Question upon y^e Case of Hugh Drury whether this Court would Declare it a Nullity, past in the Negative. Jterum. whether they should be Compelled to Cohabit past in the Negat. . . .

S. F. 1644.4

Marey Drewrey hir reasons of Apeale form the Sentance of The Honble Co[nty] Court helld at Boston July 31th 1677

Becawse our first Law or Fundamentall Liberty Js that noe p^rsons goods or estate shall Bee Taken away or aney wayes endamadged but By virtue or equity of Some expresse Law of the Cuntrey waranteing the same &c: Now the Appealant humbly Conceiues that shee Js not gilltey of the Breach of aney Law of the Cuntrey or aney rule in the word of god by reason of hir Liueing apart from him that pretends him selfe hir husband; hir Case beeing Considered as in trewth Jt is; Jts trew yo^r Apealant: did in the Last Cuntrey Court owne that shee did not Liue with him that pretends to Be hir husband and Conceiues shee hath greate reason soe to doe, First Because shee Affirmes and Jt may Otherwise apere that hee Js Not Truley hir husband Secondly shee had h[is] Free and Full Concent to part from him; Jt Beeing Jndeede of his owne Contruance and Not hirs as has bin Attested in Court By Samuel Shrimpton and Docto^r Cooke; Thirdley Sithence Their parteing and Sithence the Aduise of this hono^rd Court to them: hee hath expressed him Selfe Vnwilling that yo^r Apealant should Liue with him; and to preuent hir Coomeing to him Lett out his howse for 21 yeares and putts

h[im]sellfe Out to board for the tyme hee was heare in the Colloney; and before the Last Court we[nt] out of the Colloney; soe that Jf yo^r Apealant weare desireous to Liue with him; yet Knew Not wheare to Fynde him:

Now whether Jt be Just that yo^r Apealant should Be Fyned fye pound for Not Liueing with one that Js not hir husband Nor hath a[ney] desire shee should Liue with him; Nor an[ey] Setteled place of Aboade That shee may [*torn*] wheare to fynde him

The Apealant humbly Leaues to the serious Consideration of this Honoured Court:

Marey Drurey

These Reasons were Received aug^o 30th 1677

per Js^a Addington Cler

The Court of Assistants (Records, i. 101) confirmed the former sentence, after which Mary Drury addressed to them the following petition (S. F. 26619.1), which is the last reference we find to this case:

To: The Honorable John Leverett Esq^r Governor Sam^{ll} Symonds Esq^r Dep^t Gov^r & the Honored Assistants now Assembled in the Court of assistants in Boston

The: Humble petition of mary Drury humble Sheweth that wheras yo^r petitioner was maryed to Hugh Drury who was then incapasitated for a mariage Estate as may apear by the Relation of his former wife to severall persons her freind[s] Signyfying he was under Some inabillity of Body, as their Severall Testamonies doe declare, Viz^t W^m Avery Rachell Harwood, Susannah Dawes Lidia Cheaver, Marth[a] Coazins & Elis^a Edsell, whose relation yo^r petitioner by her Sad Experience of her pretended husband now kno[ws] to be the truth, & w^{ch} She Can frely give her oath unto & wheras your petitioners pretended husband hath fr[om] a verrey Little time after her Coming unto him till the time of her parting been Exceeding unnaturall & unkind to her both in Sicknese & health, as was declared to the honour^d County Court, & noe ways hath Caryed himselfe towards her as a Freind much Lesse a husband by w^{ch} meanes her Life hath been verrey uncomfortable and Burthensome, w^{ch} ocationed our parting w^{ch} the honored Court was pleased to take notice of, which parting what Ever he may pretend to, was first moved & Contrived by himselfe as did apeare by the testamonies in that Court offered: Wherefore yo^r petitioner humbly prayeth that your honours would please Seriously to Consider her distressed Condition & give her what releife Justice & reason may afford, that She may be freed from such an unsupportable burthen & yo^r petitioner Shall Ever Pray &c.

M The marke of Mary Drury]

GRACE a Negro whip't

Grace W^m Colemans Negro convict of committing Fornication and having a bastard Childe; Sentenced to bee whip't with twenty Stripes & to pay fees of Court standing committed etc.

WRIGHT Fin^d 5^s

Robert Wright presented for Stealing, owned that hee tooke three rayles belonging to m^r Jacob Eliott without Leave: Sentenced to pay

five Shillings in mony fine to the County, three Shillings in mony to m^r Eliott and fees of Court standing committed &c.

GRIFFITH Fin^d £.2.

William Griffith complain^d of for assailing of John Casey & his wife upon the highway in theire comming from Roxbury, in the Evening: The Court having considered of what was alleaged and proved ag^t him Sentenced him to pay Forty Shillings in mony fine to the County twenty Shillings in mony to John Casey & fees of Court standing committed &c.

MILLS Fin^d 10^s

John Mills Senio^r of Brantery convict by his own confession in Court of Selling a gill of liquo^r to Indians Sentenc^d to pay ten Shillings in mony fine to the County according to Law.

MOYLE Fin^d £.5.

Jeffery Moyle complain^d of for prophane wicked Swearing curseing threatning and for other misdemeano^{rs} The Court having heard & considered the Evidence produced against him & his own confession in Court Sentenced him to bee whip't with twenty Stripes or to pay five pound in mony fine to the County & fees of Court standing committ^d &c.

KINDE his Licence

Arthur Kinde upon approbation from the Select men of Boston was licensed to Keepe a Cookes Shop to Sell onely penny beere with his victualls for the yeare insuing; who gave bond for observance of y^e laws.

HUDSON his Licence

Captⁿ W^m Hudson had his licence renewed to Keep a publike house & to Sell wine beere & Cider by retaile for the yeare insuing; who gave bond for observance of the laws. [463]

WING his Licence

John Wing upon approbation of the Select men of Boston was licensed to keepe a house of publike entertainm^t to sell wine beere Cider &c. by retaile for the yeare insuing, who gave bond for his observance of the laws.

FEILD her grant

In answer to the motion and request of Mary Feild widdow Relict of Robert Feild dec^d and her Children: The Court considering her necessities and her being a joint purchaser of the lands in Boston whereof her s^d husband dyed Seized as appears by the Deed thereof, do grant her full power to make Sale of one full halfe part of s^d land for the paym^t of her husbands debts and her own maintenance.

BREWSTER whip't

Margaret Brewster of Barbados convict in Court by her own confession of comming into the South meeting house in Boston upon the Sabbath day in the time of dispensing the word of God in a disguised manner with her face black^t her haire dishelved about her Shoulders, ashes on her head and sackcloth on her Shoulders, to the disturbance of the congregation and prophanation of the holy Sabbath: Sentenced to bee stripped unto the waste and to bee tied to a cart's tayle and whip't out of the Town with twenty Stripes, begining at the s^d meeting house, this to bee done upon the next Lecture day in Boston, and the Marshall is ordered to see the Execution thereof Shee standing committ^d &c.

WIGHT Sentenc^d

Lidia Wight of Long Jsland convict of accompanying the s^d Margaret Brewster into the s^d meeting house in her disguise at the time aforementioned, Sentenced to bee tied to the Cart and to accompany the s^d Margaret when Shee receives her punishm^t

MILLS

Mary Mills of Blackpoint convict as aboves^d is alike Sentenced to bee tied to the Cart.

BOWER

Barbery Bower of Charlstown convict of comming into the s^d Meeting house at the same time when the said Margaret was there in her disguise is alike Sentenced to bee tied to the Cart.

VSHER his discharge from Exec^r

In answer to the petition of m^{rs} Mary Vsher widdow Hezekiah Vsher and John Vsher Executo^{rs} of the last will of m^r Hezekiah Vsher

late of Boston merchant dec^d that the s^d John Vsher might bee freed from his s^d Executorship: The Court grants the Petition^{rs} their request therein and discharge the s^d John Vsher.

The Court adjourned to thursday the. 9^o of aug^o at eight in the morning. [464]

August. 9^o 1677.@

The Court met according to adjournm^t

Present

Gov^r

EDW^d TYNG Esq^r

THO: CLARKE } Esq^{rs}
JOSEPH DUDLEY }

SMITH whip't

John Smith imprisoned for his living idley, giving no account of his buisness here, but rendring himselfe suspitious both in his words and carriages. Sentenced to bee whip't out of Town at a carts taile with ten Stripes and ordered that if hee return again hee shalbee imprisoned.

EARLE appoint^d Keeper

Robert Earle is appointed to bee the Keeper of the prison in Boston and Thomas Matson the present Keeper is ordered upon sight hereof to deliver up the keys and the prison^{rs} unto his charge: and the said Earle is ordered to keepe up Jeffery Moyle a close prison^r untill hee shall by order of Authority bee delivered to the Marshall to bee Ship't off; giving him liberty to walke in the Town by day with a keeper hee being at the charge thereof.

LAKE his Guardian

John Lake Exec^r of the last will of his uncle John Lake late of Boston dec^d appeared in Court & made choise of m^r James Tayler to bee his guardian during his minority, relating unto his Executorship and his right and interest in his s^d uncle his Estate; which the s^d Tayler accepted and the Court approved of, hee giving in Security according to Law.

PEPPER his Estate Setled

An agreement between Robert Pepper on the one party and his daughter in law Mary Pepper of the other party for the Settlement of the Estate of Joseph Pepper dec^d the Son of the s^d Robert Pepper between the afores^d Mary Pepper widdow of the aboves^d Joseph Pepper and her daughter Bethiah Pepper Jf this Honord Court see reason to confirme it, if not both partys do freely Submit themselves to yo^r pleasure earnestly desiring that you would please to Settle it: Now the agreement is this that the Childe shall have twenty and one acres of Land that Lyeth together meadow and upland apprized in the Jnventory at Sixty pounds, and the s^d widdow shall have all the rest of the Estate that did belong to her husband aboves^d Joseph Pepper dec^d as her own proper Estate Shee paying all the debts and bringing up the Childe untill it come of age or marriage and in consideration that the house standeth on the Land belonging to the Childe they have mutually agreed that the s^d widdow shall have an acre of land where the house standeth beginning four rods beyond the North end of the house & abutting by the highway and so along beyond the South end of the house, and the widdow shall fence in this acre of land & orderly plant it with fruite trees for an Orchard, and when the [465] Child comes of age or at marriage the Childe shall have halfe of this Orchard the widdow shall have that part next to the house and Shee shall take equall care of the whole both for planting and fenceing & manuring; as also the afores^d Widdow shall have the improvement of the Childes part untill the age of one and twenty yeares or its marriage; also it is agreed that Shee shall make no stripping waste of wood on the Child's part, but shalbee allowed fire wood for own family, and what timber shee needs for to fence in the Land with or for building; but not to Sell or otherwise dispose of any great wood; as also wee do agree that each party shall choose one man to see that there bee no wrong done to the Childes part according to the true intent hereof Dated this. 3. of august. 1677.@

Robert Pepper
Mary Pepper

Witnesses William Gary
Edward Morris

Own^d in Court. 3^d aug^o 1677. by the partys Subscribing to bee their act and deed and The Court confirmed it.

as attests. Js^a Addington Cler.

RIGBEE Fin^d 20^s

Samuel Rigbee presented for drunkenness Swearing Jdleness and absenting himselfe from the publike worship of God: The Court upon the hearing and consideration of, what was alleaged ag^t him Sentenced him to bee whip't with ten Stripes or to pay twenty Shillings in mony fine and fees of Court standing committ^d &c.

Order about HAWKINS her mony.

In answer to an order of the Generall Court relating to the mony paid by m^r Sampson Sheafe to m^r Richard Collacot assignee of L^t Richard Cooke for & in behalfe of the wife and Children of Thomas Hawkins: The Court Orders the Clerke to take Security of m^r Collacot for the payment and improvem^t of the s^d mony by a mortgage of one halfe of his Farme at Milton.

BROWN to BRADING

Josias Brown of Marblehead personally appearing before John Leverett Esq^r Gov^r and Edward Tyng Esq^r Assist. Oct^o 12^o 1677. confessed Judgem^t ag^t himselfe & Estate unto James Brading of Boston for Five pounds & Eight Shillings according to bill to bee paid in mony or Fish at mony price.

as attests. Js^a Addington Cler 1677 [466]

CLEMENTS to BRADING

John Clements Fisherman personally appeared before John Leverett Esq^r Gov^r and Edward Tyng Esq^r assist. Octob^r 23^o 1677. and confessed Judgement against his Estate and person unto James Brading for Eighty pounds to bee paid in fish.

as attests. Js^a Addington Cler

HERRIS etc. to DEANE

Thomas Herris and Edward Cowel both of Boston personally appearing before Daniel Denison Esq^r and Thomas Clarke Esq^r Assist^s Oct^o 25^o 1677. confessed Judgement against their Estates and

persons jointly and severally unto Thomas Deane of s^d Boston merchant for One hundred thirty two pounds to bee paid in currant mony of New-England according to bond on file. dat^d 19^o Decembr 1676.@

as attests. Js^a Addington Cler

m^r Tho: Deane personally appearing aug^o 16. 1678. acknowledged he was fully satisfied this Judgem^t by Edw^d Cowell.

Js^a Addington Cler

CODNER to BRADING

Joshua Codner of Marblehead personally appearing before Edward Tyng Esq^r and Joseph Dudley Esq^r Assist^s Octobr 26^o 1677. and confessed Judgement ag^t his Estate and person for thirty five pounds in mony to bee paid unto James Brading of Boston.

as attests. Js^a Addington Cler

HICKSON Sent^a

Samuel Hickson complained of for running away from his Master John Hill Stealing &c. The Court Sentenc^d him to bee whip't with Fifteen Stripes and order his Master to make Sale or otherwise to dispose of him in or out of the Country and to pay fees of Court standing committed etc.

SYMMONS Sent^a

Robert Symmons convict by his own confession in Court of taking up a peice of Stuffe valued at £.4:10:0 and £.3. in mony which hee saith hee found in the streete (the stuffe being challenged by Edmund Mountford) and not making it known or crying of it according to law; but imbezelling and converting it to his own use. Sentenced to bee whip't with fifteen stripes and to pay unto Edmund Mountfort Nine pounds mony and to pay £.4. mony fine and fees of Court standing committ^d &c. and his Master Conney is ordered to dispose of him to Serve in any of his Maj^{ties} Dominions and to bee accountable to the County for one third of his price

MACKALUCEY Sent^a

Katharin Mackalukey convict of confederating with Rob^t Symmons in concealing of goods and mony which the s^d Symmons sth

hee found, and not attending the law to cry it; Sentenced to bee whip't with ten stripes and order that her mast^r Conney make Sale of her in any of his Maj^{ties} Dominions paying fees of Court standing committ^d &c. [467]

BRIDGHAM his Estate Setled

For a Setlem^t of the Estate of the late Benjamin Bridgham dec^d The Court orders that the Bretheren of the s^d Benjamin shall have and injoy the whole Estate left by s^d Benj^a both in lands and movables to theire own proper use (the house hold goods except) debts and funerall charges being first paid with what hath been necessarily expended by Sarah his Relict for her own and Servants maintenance since her husbands death; as also that the Servant late s^d Benjamins Serve out his time with the s^d Bretheren they fulfilling his Jndenture: The s^d Bridghams paying unto Sarah Relict of theire s^d Brother the Summe of two hundred pounds in mony and Shee to enjoy all the house hold goods: and that the s^d Sarah deliver up the Estate as is aboves^d unto the Bretheren of her s^d husband according to Jnventory the mony to bee paid one halfe at three months' end, the other halfe at Six months.

[S. F. 1591

To the Honored Ginrall Courtt Maggestrates and Debetyes Now Setting in Boston the humble petition of the Subscribers;

Sheweth that your petitioners heaving For Sum time Laboured and Wated in a Bisnes Which to them as they Vnderstand itt; is of Sum Consederable Importt & Vallue; and in the Jshue may; nott bee in Vain for the futuore Unto others in the Like Case Much Honored With all Due Caor to avoid tediousnes (in shortt) the Case is our Brother Benjamine Bridgham is dead Jntested and Leafitt noe Jshue maile or femaile; Butt a Widdow; With home wee heave treated as Ciueilly as Wee Possibley Could by our Selues and Freinds Butt obtain no Compliance att all; Butt Sum time She Wold Say she Wold Refer itt to Law; Wee when other meanes Used would nott doe; maid our Applycation to the Courtt according to Law; title Wills; 3 Section; Which as Wee humble Conseued Was our way; and where such Cases are to bee determined; Butt nott With Standing whott formerly shee had Said att thatt time She Refused to stand to the Courtts determination; and the Courtt forbour to actt; Soe your poor petitioners are with out hope of help Except this Honored Courtt should please to take notis of there Case and directt them; your petitioners doe nott Know nor did thinke thatt the Law bee-fore Exsprestt had been suspended by the Will of Eather ple; Butt itt had been determinable there; Thow posable an Appeale might bee admitted) our humble desiar therefore is the Honored Courtt Would take Cognisence of our case and

yeald us such Releafe as there Wisdom vpon hereing shall see meatt; & your petishenors shall Pray;

John: Bridgham
Jonathan: Bridgham
Joseph; Bridgham
Henry Alline
Robert Sanderson; over Seers
to the To yonger Brothers;

The Deputyes Desire o^r Honord magists will please to giue Answer to this pet in the first place

William Torrey Cleric

The magists Judge meet to Referr the determination of this petition to: the County Court for Suffolke to make Diuission & Setlement of what is peticoned for as they shall Judge æquall their brethren the deputyes hereto Consenting:

Edw^d Rawson Secrety

28th may 1677:

The Deputyes Consent hereto these words being Added, (According to law) desiringe the Consent of o^r honord magists hereto William Torrey Cleric
Consented to be the magists Edw Rawson Secrety]

SMITH her Estate ordered

For a Setlement of the Estate left by Elisabeth Smith widdow deced. It is ordered that the whole Estate bee divided into five equall parts & so distributed unto the five Children of s^d Smith Viz. John, Joseph, Benjamin, Francis, and Sarah, what any of them have already received from s^d Estate to bee defalked out of their respective parts: m^r Simon Lynde, James Everell and John Wing are appointed a Committee to Set out the Estate as above and to make return to the next Court of this County. The Return on file with Ianuary Court papers

HOWLETT his Estate Setled

For a Setlem^t of the Estate of John Howlett marrin^r late of Boston dec^d intestate. It is ordered that the remainder of the Estate (debts being first paid) amounting to One hundred thirty Seven pounds Eighteen Shillings Six pence bee equally divided between Susanna his Relict & Mary his onely Childe: Francis Hudson Father to the said Susanna taking the Childes part into his hands and paying interest for it yearely to its mother towards its education for which hee is to give Security.

HUFFE Fin^d 10^s

William Huffe convict of disorders in his house, Sentenced to pay ten Shillings in mony fine to the County and fees of Court standing committ^d &c. and the Court caution him not to entertain Lodgers for the future.

SPENCER Fin^d

Garthwait Spencer convict of selling strong drinke by retaile contrary to law having been under former convictions of the like; Sentenced to pay five pounds mony fine to the County & fees of Court and to give bond with Sureties of £.100: to bee of good behavior for the future especially not to transgress the law in the like kinde for the future standing committ^d &^a [468]

POPE Fin^d 10^s

John Pope Senio^r of Dorchester convict of drunkenness Sentenc^d to pay ten Shillings in mony fine to the County and fees of Court standing committ^d &c.

HASTINGS Sent^a

Miles Hastings convict of Swearing and other misdemeano^{rs} Sentenced to pay ten Shillings mony fine to the County prison charges & fees of Court standing committ^d &^a

EARLE ordered out of Boston

Henry Earle is ordered to depart the Town of Boston.

LAVADURE Fin^d £.5.

Priscilla Lavadure convict by her own confession in Court of re-tailing wine contrary to law. Sentenced to pay Five pounds mony fine to the County and fees of Court standing committ^d &c.

MARSH Sent^a

Mary Marsh bound over to answer for stealing severall parcells of Linnen from sundry persons The Court having heard and considered of what was alleaged and proved against her Sentenced her to pay unto m^r Paul Dudley six Shillings mony unto Sam^l Jacklen

five Shillings mony being treble damages according to law theire linnen to bee return^d them again and to pay fees of Court standing committ^d &c.

LAVIS ordered to pay charges

Robert Lavis convict of giving out suspitious words in a threatning way Ordered to pay charges of prison and fees of Court and so to bee discharged.

BROOKINGS his Licence

John Brooking had licence granted him upon approbation of the Select men to keepe a Cookes Shop and to Sell penny quart beere; who gave bond for observance of the laws and his Licence.

This Court dissolved [469]

At a County Court held at Boston October. 30th 1677.@

Present

JN^o LEVERETT Esq^r Gov^r

SIMON BRADSTREET Esq^r

EDW^d TYNG }
THO: CLARKE } Esq^{rs}

Grand Jury the same with the former Court

Jury of Tryals Sworn

m^r James Whetcomb

W^m Lyon Sen^r

James Atherton

Daniel Preston

Nathanael Pitcher

Stephen Paine

W^m Richards Sen^r

John Chubbuck

Samuel Bates

Robert Weares

Joshua Fisher

John Turner

[WATERHOUSE v. USHER]

David Waterhouse or his Lawfull Attourney plaint. ag^t John Vsher Def^t in an action of the case for withholding the Summe of two hundred and Forty pounds currant mony of New-England being the Forfiture of an Obligation under his hand & Seale bearing date January. 31^o 1676. with all due damages etc. . . . The Jury . . . found for the plaint. two hundred & Forty pound mony forfiture of the bond & costs of Court: Vpon request of the Def^t the Court having heard both parties (the plaint. acknowledging the receipt of One hundred and twenty pounds), chancered this Forfiture to thirty pounds mony the full remainder of the condition of s^d Obligation & costs of Court. thirty four Shillings & 3^d

[TAYLER v. USHER]

James Tayler plaint. ag^t John Vsher Def^t in an action of the case for withholding the Summe of Four hundred and Fifty pounds in currant mony of New-England due upon the Forfiture of an Obligation under his hand & Seale bearing date January. 31^o 1676. with all due damages &c. . . . The Jury . . . found for the plaint. four hundred and Fifty pounds mony Forfiture of the bond & costs of Court. Vpon request of the Def^t & hearing of both parties (the plaint. acknowledging the receipt of One hundred & Eighty pounds) The Court chancered this Forfiture to Forty five pounds mony the full remainder of the condition of s^d Obligation & costs of Court. thirty four Shillings & three pence

ALLEIN agt. VSHER

Josias Allein plaint. ag^t John Vsher Def^t in an action of the case for withholding the Summe of three hundred and Sixty pounds in currant mony of New-England due upon the Forfiture of an Obligation under his hand and Seale bearing date the. 16th of January 1676. with all due damages &c. . . . The Jury . . . found for the plaint. three hundred and Sixty pounds mony Forfiture of the bond & costs of Court. Vpon request of the Def^t & hearing of both parties, (the plaint. acknowledging the receipt of one hundred & Eighty pounds) The Court chancered this Forfiture to Forty five pounds mony the full remainder of the condition of s^d Obligation & costs of Court. 34^s 3^d [470]

BALLARD agt. WATTS

Jarvis Ballard plaint. ag^t the Estate of Michael Watts of London Merchant in the hands of Benjamin Davis or wheresoever it may bee found Def^t in an action of the case for the withholding or non payment of thirty two pounds and ten Shillings or thereabout due in mony upon acco^t with all other due damages etc. . . . The Jury . . . found for the Defend^t costs of Court. m^r Hudson Leverett appearing as Attourny for the plaint. appeal^d from this Judgem^t unto the next Court of Assistants and himselfe principall in thirty two pounds and John Fayreweather and William Coleman Sureties in £.16. apeice were respectiue bound . . . for the prosecution of s^d Appeale . . .

[See Records of Court of Assistants, i. 112.]

RAYNSFORDS ag^t GREEN

John Raynsford David Raynsford and Solomon Raynsford plaint^s ag^t William Green Def^t in an action of trespass upon the case for improving and wharfing upon a peice or parcell of Land beach or Flatts jointly belonging to them the s^d Raynsfords lying at the Southerly end of the Town of Boston in the reare of their Father Raynsfords Orchard pretending an interest in the s^d Land or Flatts, and thereby defaming the just and Legall title of the plaint^s thereunto, which is to their damage about one hundred pounds with all other due damages etc. . . . The Jury . . . found for the plaint^s the land in controversy & costs of Court allow^d twenty Seven Shillings eight pence.

THWING ag^t HAWLEY

Benjamin Thwing plaint. on appeale from the Judgement of the Worpp¹¹ Joseph Dudley Esq^r ag^t Dorothy Hawley Defend^t The Judgement Reasons of Appeale and Evidences in the case being read and committed to the Jury; which remain on file with the Records of this Court The Jury brought in theire verdict they found for the Defend^t confirmation of the former Judgem^t (which was for forty Shillings mony damage & cost) and costs of Court.

FOWLE ag^t STEVENS

Jacob Fowle plaint. agt. John Stevens Def^t in an action of the case for not rendring an acco^t nor the produce of a parcel of Fish Oyl and apples betrusted with him in the yeare. 1676. amounting to the value of twenty four pounds two Shillings five pence as appears under the hand of the s^d Stevens whereby the pl^t is damnified the aboves^d Summe of mony &c. . . . [471] The Jury . . . found for the Defend^t costs of Court.

ALDEREDGE agt. STEVENS

Samuel Alderedge plaint. ag^t John Stevens Def^t in an action of the case for not rendring an acco^t of nor the produce of a parcell of Fish apples and onyons betrusted with him in the yeare. 1676. amounting to the value of Eighteen pounds Seven Shillings and two pence as appears under the hand of the s^d Stevens whereby the plaint. is damnified the aboves^d Summe in mony with all other just damages &c. . . . The Jury . . . found for the Defend^t costs of Court.

BRATTLE agt. WOODBRIDGE etc.

Capt^a Thomas Brattle plaint. ag^t Thomas Woodbridge of Newberry and George Hews of Salisbury or either of them Def^ts for not delivering unto s^d Brattle nor his order on the wharfe in Boston dock twelve thousand foote of good merchantable pine boards according to bond dat^d March: 17th 1676/7. with due damages. . . . The Jury . . . found for the plaint. the bill Sued for twenty pounds in mony with twelve Shillings mony damage and costs of Court twenty Eight Shillings. 6^d

Execution issued pr^o Janur^o 1677.

STEVENS ag^t LONG

Aron Stevens plaint. ag^t Zechariah Long Def^t for refuseing to pay the Summe of four pound three Shillings in mony or thereabouts due for wages for Service done in the Ship Recovery whereof s^d Long is Master, this yeare in her voyage from London to Lizborn and from thence to this place with all due damages &c. . . . The Jury . . . found for the plaint. thirty Shillings and three pence mony and costs of Court Eighteen Shillings six pence.

TROTT agt. STODDARD

Bernard Trott plaint. ag^t Sampson Stoddard Def^t The plaint. was nonsuted in failure of process.

Bernard Trott plaint. ag^t Sampson Stoddard Def^t The plaint. was nonsuted in failure of process.

WAY agt. WALKER

L^t Rich^d Way Attourney of John Hornbrooke plaint. agt. Mary Walker Relict and adm^x of Obadiah Walker dec^d Def^t The plaint. in failure of process mistaking the Defend^{ts} name was nonsuted. [472]

EDWARDS agt. GAMMON

Thomas Edwards of Marblehead plaint. ag^t Robert Gammon Def^t according to attachm^t The attachm^t and Letter of Attourney (no other Evidence being produced) was committ^d to the Jury; who brought in there Verdict they found for the Def^t costs of Court.

WILCOCKS ag^t VIALL

Owen Wilcocks Attourney of Peter Barbe of London Merch^t plaint. ag^t Nathanael Viall Def^t for not rendring an acc^o of the dispose together with the produce of a parcell of goods amounting unto by Invoyce the value of one hundred and nineteen pounds two Shillings and four pence first cost in London betrusted with him s^d Viall to Sell and dispose of for the proper acco^t of said Barbe as shall appeare under the hand of s^d Viall with other due damages &c. . . . The Jury . . . found for the plaint. Seventy pounds mony or the Def^t to render an acco^t of the goods committed to his trust within ten dayes to the Satisfaction of the Court & costs of Court

CHILDE ag^t LONGFELLOW etc.

Alwin Childe plaint. ag^t William Longfellow of Newberry and Joseph Dell of Boston or either of them Def^{ts} for not paying the Summe of Sixty five pound fourteen Shillings & four pence currant mony of New-England due by bond dat^d June. 2^d 1677. under the hands and Seales of s^d Longfellow and Dell with other due damages &c. . . . The Jury . . . found for the plaint. the Forfiture of the bond Sixty five pounds fourteen Shillings and four pence mony and costs of Court. The Defend^t Dell appealed from this Judgem^t unto the next Court of Assistants and himselfe principall in £.130. Tho: Watkins and John Somes Sureties in £.65. apeice were respectiuey bound . . . for the prosecution thereof to Effect.

[See Records of Court of Assistants, i. 112.]

OXE ag^t LONGFELLOW

Robert Oxe plaint. ag^t William Longfellow of Newberry and Joseph Dell of Boston or either of them Def^{ts} for not paying the Summe of two hundred & thirty Six pound in currant mony of New-England due by bond bearing date June. 2^d 1677. under the hands & Seales of s^d Longfellow and Dell with all other due damages &c. . . . The Jury . . . found for the plaint. forfeiture of the bond, two hundred [473] thirty Six pounds mony & costs of Court: The Def^t Dell appealed from this judgem^t unto the next Court of Assistants.

[See Records of Court of Assistants, i. 112.]

JOHNSON ag^t CRAFTFORD

Francis Johnson plaint. ag^t Mordecai Crafford Defend^t in an action of debt of five pounds Eight Shillings and five pence in fish due by bill bearing date March. 16^o 1671/2. under the hand of s^d Crafford, with interest & all other due damages etc. . . . The Iury . . . found for the plaint. five pounds eight Shillings five pence according to bill & costs of Court allowed twenty two Shillings & four pence.

WENSLEY ag^t DAVIS

John Wensley of Boston Merch^t or his Lawfull Attourny or Attournys plaint. ag^t Sam^l Davis Marrin^r who married with Elisabeth the Relict and Administratrix of the Estate of the late Captⁿ Na-

thanael Davenport deced. Def^t in an action of the case for an Acco^t and the produce of sundry goods & merchandizes to the value of five hundred pounds Left with the s^d Nathanael Davenport at New-York and committed to his dispose for Acc^o of s^d Wensley with all other due damages etc. . . . The Jury . . . found for the plaint. four hundred pound mony damage or that the Defend^t or his Attourny render an Acc^o upon oath of the Estate that was left in the hands of Capt^a Nathanael Davenport dec^d by the plaint. at or before the tenth. of April. 1678. and costs of Court. Elisabeth Davis producing a Letter of Attourny from her husband appealed from this Judgem^t unto the next Court of Assistants and herselfe principall in four hundred pounds and John Walley and Tho: Thacher jun^r Sureties in £.200. apeice were respectiuey bound. . . for the prosecution thereof to Effect.

[See Records of Court of Assistants, i. 111.]

TAILER ag^t ELLIS

William Tailer administrato^r to the Estate of FreeGrace Bendall deced. plaint. ag^t Henry Ellis Def^t in an action of debt of Sixteen pound in mony due by bond bearing date March. 18^o 1676. under the hand & Seale of s^d Ellis with all other due damages &c. . . . The Jury . . . found for the plaint. Forfiture of the bond Sixteen pounds mony & costs of Court.

BALSTON agt. WOODBRIDGE

Jonathan Balston Senio^r plaint. ag^t Thomas Woodbridge Def^t in an action of debt of Eighteen pound thirteen Shillings in mony due by bill bearing date aug^o 25. 1676. with due damages &c. [474] . . . The Jury . . . found for the plaint. Eighteen pound thirteen Shillings in mony debt according to bill twenty Shillings mony damage and costs of Court allow^d twenty Six Shillings six pence.

Execution issued pr^o Janur^o 1677.

HAMMOND agt. PHIPS

Elisabeth Hammond widdow plaint. agt. William Phips Defend^t in an action of the case for not paying the Summe of three pound six Shillings due for Beife Sold & deliu^rd him as shall appeare by

Evidence with all other due damages &c. . . . The Jury . . . found for the plaint. three pounds mony damage and costs of Court: The Def^t appealed from this Judgement unto the next Court of Assistants and himselfe princip^l in eight pounds, David Copp and John Parmiter Sureties in £.4. apeice were respectively bound . . . for the prosecution thereof to effect.

[Margret Lourett deposed (S. F. 1682.5) that she saw Samuel Smith, son of Elisabeth Hammond, "weigh a barrell of Beeffe to William Phillips." John White deposed (S. F. 1682.6) that while he was working at Sheepscot River William Phillips and Samuel Smith came with a parcel of dry beef, weighing not less than 3 cwt., which Phillips declared he had from the "Roushick" garrison. Other depositions, Phips' Reasons of Appeal, and Hammond's Answer are in S. F. 1682.3-8. The Court of Assistants (Records, i. 113-14) confirmed the former judgment of 3*l* and 35*s* 10*d* costs.]

HILL ag^t EARLE

Thomas Hill plaint. ag^t Robert Earle Prison Keeper Defend^t in an action of debt of five pound nine Shillings in mony due from Joseph Armitage for w^{ch} by Execution upon a judgement of the Commission^{rs} Court s^d Armitage was committed to prison, and by s^d Earle permitted to goe without the presincts of the prison whereby the plaint. is damnified the value abovesaide with all other due damages &c. . . . The Jury . . . found for the Def^t costs of Court allow^d twenty three Shillings.

FLOOD ag^t LEGG

James Flood plaint. ag^t Sam^l Legg Def^t in an action of the case for not paying the Summe of Fifty two pounds or thereabouts in mony due for wages of worke done onboard and belonging to the Ship William & John by the space of sixteen months or thereabouts at three pound five Shillings per month s^d Flood being Shipped by s^d Legg, who was Master of the s^d Ship as his Mate and so Sailed in her this Last voyage from Boston to Bilbo from thence to London and so to this place being ship^t. May. 29^o 1676. and put out of pay about the 30th of Sept^r Last, to the plaint^s damage the value aboves^d wth other due damages &c. . . . [475] The Jury . . . found for the plaint. six pounds thirteen Shillings three pence mony damage and

costs of Court The plaint. appeal^d from this judgem^t unto the next Court of Assistants & himse^le principa^l in ten pounds and John Morse and John Bull Sureties in £.5. apiece were respectively bound . . . for the prosecution thereof to effect.

[The case turned on whether the plaintiff, mate of the ship William & John, had or had not made a special agreement with the defendant, master and past owner of the said vessel, to go on half pay while the vessel lay at London. The depositions remaining on file are all in favor of the defendant.

S. F. 1789.4

The Deposition of Moses Maverick aged about Eighteen yeares testifieth that hee heard Iames Flood say Severall times at Bilboa that hee would go no further in the Ship William and Iohn then to London and would not go home in her again and that in Bilboa about the begining of Febr. last that Samuel Legg did desire all the men to declare what they would give if hee went for London and they said one month's pay, and do not remember but that m^r Flood was as well Satisfied as the rest and never spoke against it untill hee came for London.

Sworn in Court Octob^r 31th 1677.

attested per Js^a Addington Cler

Legg deposed, when the case was reviewed in 1679 (S. F. 1789.7), that after the vessel had been unladen at London, he

. . . cleered off the Ship the mate and men and paid them their wages & told James Flood that hee might go with whome hee pleased for hee was cleer from mee, and if hee should go with me again I would not give him such wages as J did before and that hee must lye in halfe pay according to the custom of the River; and hee entred on the Ship again at three pounds per month at sea and halfe pay in the River according to custom and that time J could had very able mates for Forty five Shillings per month and in halfe pay to Graves end; but when J came to Gravesend I paid the Seamen their halfe pay and profered Flood his also, hee refused and said hee would leave himselfe to the Owners of the Ship or words to that effect.

The nature of the plaintiff's appeal may be inferred from Legg's answer (S. F. 1789.6):

Jn Ans^r to Iames Floods false charge of Samuel Legg which hee calls Reasons of his Appeale.

Whereas the plaintife Saith that hee appealed because the Jury found but Six pounds thirteen Shillings and three pence the Defend^t had more reason to appeale because they found so much, when there was but three pounds fifteen Shillings due as per Account upon Oath appeared. It is granted that Flood was Shipped from Boston to Bilboa at three pounds five Shillings per moth and had had the same wages had they come from Bilboa to New-England for the whole Voyage and was so paid in London when that Voyage was ended, for when wages are paid the Voyage ends, when the Ship was in Bilboa the Defend^t called his Company together and declared that they had made a long looseing Voyage, and to make up

some part of the Owners loss and to gratify the Company if they would consent to give the Owners one month's pay then the Ship should go for London and they receive their wages there which was done in kindness to them and the Company freely and unanimously consented to it as Naverick in his testimony Saith that Flood was as well Satisfied as the rest and his Silence argued his consent w^a Flood had received his wages in London if hee would not have Sailed in the Ship for three pounds per month hee might have gone elsewhere and have bettered himselfe if hee could, one Evidence Saith that hee said hee would leave the Ship in London but hee was not so good as his word Noyes his testimony onely Saith that at a house neere the Town in Bilbao hee heard Legg Say that hee expected New-England men that went home with him should remain in whole pay but not the time when this was spoken whither before or after they had all consented to give a month's pay to the Owners upon the Ships going for London, their first intended Voyage was from New England to Bilboa and thence to New England again but Legg with the consent of his Company upon the condition afores^d altered the Voyage and goes for London from Biboa and there payes the men their wages and discharges some of them: That Mates as well as other Seamen are under halfe pay while they are in London untill the Ship bee cleered at Grauesend is evident by a Certificate under the hands of many Masters of Ships besides the custom of our Nation; That Assertion that the Maste^r might give a month's pay himselfe and bee a Saver too is a foolish mistake for Legg was but an Eighth part Owner and hee had then Six pounds per m^o wages and the portlidge bill was but twenty nine pounds three Shillings wages per m^o the whole, therefore could not but be a Looser though hee was an Owner; That Legg had changed his wages twice is a very falsehood with the consent of the Company was altered, that hee changed his wages ten times is a great Hyberboly; These things being considered I hope this Honour^d Court & Gentlemen of the Iury will see that Flood had no reason to trouble Legg having tendred him his money, much less falsely to charge him with fraud & deceit and consider of the Law (Appeales) Sect. 3. and finde cause to abate of the damages found against Legg by the Honord County Court and the Defend^t shalbee and alwaies was as willing to pay the plaintife his just due as ever hee was to Rec^v it.

your Hono^{rs} humble Servant

Nathaniel Williams Attourney to Samuel Legg.

. . . true Coppie . . . Edward Rawson Secret.

The Court of Assistants (Records, i. 110) assessed 7*l* 11*s* additional damage and 2*l* 5*s* 2*d* costs against the master, who nevertheless obtained a review of the case at the July session, 1679 (see below, p. 1054). See also Legg's suit for defamation at the January session 1677/78, below, p. 880.]

LEVERETT agt. BULLIS

Hudson Leverett Adm^r to the Estate of Bezaliel Payton deced. plaint. ag^t Phillip Bullis & Judith his wife Def^t in an action of trespass for illegally entring into & keeping possession of a Shop in Boston standing upon the Land belonging to the afores^d Estate whereby the

plaint. is greatly damnified with all other due damages &c. . . . The Jury . . . found for the plaintiff. possession of the Shop Sued for and three pounds mony damage & costs of Court. The Def^t appeal^d from this Judgem^t unto the next Court of Assistants and himselfe principall in Sixty pounds, Leonard Dowden & Benjⁿ Davis Sureties in thirty pounds apeice were respectiue^{ly} bound . . . for the prosecution thereof unto Effect.

[The facts of this case, so far as they can be gathered from the papers (S. F. 1753), are as follows: Payton made a contract to buy the land in question from Thomas Lake, took possession, and made outlays in building a house, "a very good one," deposed Henry Lamprey, who later occupied it, "with a Stack of Chimneys in the Middle glass Windows belonging to every Room of the House & a Wharffe before the Door" (S. F. 1753.6). But he never paid Lake the full price or took legal title. When Payton died, leaving a widow Mary and young children, this piece of property was inventoried as part of his estate. The widow rented most of the house to Lamprey for 12*l* per annum, retaining two rooms for her own use. Late in 1651 or early in 1652 she married William Paddy, to whom, for two years thereafter, Lamprey paid his rent; which was equivalent to an entry into possession by Paddy. By his common law right as husband Paddy also took over his wife's personal property, including her share of her first husband's estate. He paid Payton's children a sum which perhaps covered their share of their father's estate. By English common law Paddy was not entitled to his wife's land, but he might enjoy the rents of it during their marriage and after her death if she had borne him a child (tenure by curtesy). John Hull the mint-master asserted (S. F. 1753.5) that William Paddy was a man filled with "the Spirit of justice Love & Mercy" (he is named "Blessed William Paddy" on his gravestone), who went to considerable expense in bringing up the Payton children as his own. The defendant contends that the land might properly have been taken over by Paddy in the informal adjustment of family affairs. In 1655, legal title to the land was conveyed by Lake to Paddy; this deed was not recorded until 1677. In the meantime Paddy had died, leaving Mary a widow once more, and providing liberally by will for his Payton step-children as well as for his own full-grown children by a former marriage. The Paddy children, as his heirs, gave a lease of the land and buildings to Philip Bullis, the defendant. Now, many years later, Bullis is sued by the executor of Payton on the theory that the land was part of the Payton estate, so that Bullis' lease from the Paddy children was worthless.

Bullis defends himself (see his Reasons of Appeal, S. F. 1753.4, signed with his mark) by defending the Paddy title. His first argument is that Paddy's possession in 1651 gave him a good title. He relies on the statute of 1657 (General Laws and Liberties of the Colony, 1672 edition, title "Possession"), which states that any person who occupied real estate in his own right in fee simple before the statute of 19 October, 1652 on Inheritances, and retained possession thereof for five years from 20 May, 1657, could, by recording his claim within five years of the last date, "for ever after enjoy the same." Nothing is said to show that Paddy or his heirs recorded their claim; and Bullis delicately evades the point. But he produced a witness to prove that Paddy in 1651, before he married the widow Payton, discharged unpaid builders' accounts for the house (S. F. 1753.12), and contended that this payment was made because Paddy already regarded the house as his own. Secondly, Bullis argues that Payton never had legal title, since his contract to purchase from Lake gave no title.¹ Thirdly, Bullis relies on Paddy's legal title under the deed of 1655 from Lake. He contends the failure to record this deed for twenty years is immaterial since Lake did not remain in possession, so that there was no danger that the deed would be used to defraud Lake's creditors.² Fourthly, he declares that the inclusion of the land in the Payton inventory is an error, and it is also included in the Paddy inventory. Finally, he urges the justice of the situation, in that Paddy had paid out large sums for the benefit of the Payton children and bequeathed to them legacies much exceeding the value of the land, besides paying Payton's debts, the purchase price of the land, and a considerable part of the cost of building the house.

It is hard to see how the plaintiff had any case even if all Bullis' defenses be rejected. If Payton owned the land, title would descend to his heirs and not to his administrator, Leverett, who was suing. The only proper right of action was in the Payton children. The Court of Assistants (Records, i. 113) reversed the former judgment and assessed 34*s* 10*d* costs on Leverett.]

¹ In the English Court of Chancery this contract would have given Payton an equitable interest in the land which would have descended to the Payton children, and have enabled them to obtain legal title on completing the payment of the purchase price. Bullis does not discuss this possibility, and perhaps this equitable doctrine was ignored in the Colony.

² The existence of fraud on creditors was a strong motive for the introduction of the recording system; see the preamble to title "Conveyances, Deeds and Writings" in the General Laws and Liberties of 1672.

ARNALL agt. MOSS

John Arnall Attourney unto John Seavy plaint. ag^t Obadiah Moss Def^t in an action of the case for non performance of Covenants made by the s^d Moss to the s^d Seavy in an Indenture dat^d pr^o June. 1671 to the great damage of the s^d Seavy wth other due damages etc. . . . The Jury . . . found for the Def^t costs of Court allow^d Forty Shillings

VRIN ag^t WHEELER

Jane Vring plaint. ag^t Henry Wheeler Def^t in an action of the case for not paying the Summe of five pound twelve Shillings in mony due for three months and a halfe Service of Roger Kelley with him saide Wheeler Let unto him by the s^d Vrin at thirty two Shillings per month on a voyage to Nevis & Jamaica which s^d Kelley performed his Service in [476] But the now Defend^t witholds the due whereby the now plaint. is damnified the value aboves^d with other due damages &c. . . . The Jury . . . found for the plaint. five pound twelve Shillings in mony and costs of Court.

PERRY ag^t GILL

Seth Perry plaint. ag^t John Gill Defend^t The plaint. withdrew his action.

HAYWARD ag^t HOLBROOKE

Samuel Hayward plaint. ag^t John Holbrooke Jun^r Def^t The plaint. withdrew his action.

HARRIS agt. SHEFFIELD

Richard Harris plaint. ag^t Edmund Sheffield Defend^t in an action of debt of Forty Eight Shillings & three pence in mony due by bill bearing date the. 10th of July 1677. under the hand of s^d Sheffield with all other due damages &c. . . . The Jury . . . found for the plaint. Forty Eight Shillings and three pence & costs of Court twenty two Shillings ten pence.

Execucion issued 5^o 9^{br} 1677

TAY ag^t BLAKE

John Tay plaint. ag^t Samuel Blake Defend^t The plaint. was non-suted upon non appearance

HUTCHINSON ag^t SMITH

Eliakim Hutchinson plaint. ag^t John Smith Defend^t The plaint. withdrew his action.

NASH agt. EDWARDS

James Nash Senio^r plaint. ag^t Thomas Edwards Def^t in an action of the case for not paying the Summe of Fifty pound in mony due for a wharfe of Seventy five foote Long or thereabouts and twenty five foote wide or thereabouts done and made for the s^d Edwards by the s^d Nash above four yeares since and set up by the order of s^d Edwards in Boston with interest & all other due damages &c. . . . The Jury . . . found for the plaint. three pounds twelve Shillings mony damage and costs of Court twenty Six Shillings four pence.

VSHER ag^t VSHER

John Vsher plaint. ag^t Hezekiah Vsher Def^t for withholding the Summe of Seven thousand pounds currant mony of New-England due upon the forfeiture of an Obligation under his hand & Seale [477] bearing date Aug^o 19^o 1676. by his non performance of Covenants or Articles therein contained with all due damages &c. . . . The Jury . . . found for the plaint. Forfeiture of the bond Seven thousand pounds mony & costs of Court. The Def^t appealed from this Judgement unto the next Court of Assistants, who gave bond with Sureties for prosecution thereof.

[The judgment was reversed by the Court of Assistants. Records, i, 111.]

OXE agt HENDERSON

Robert Oxe Attourney of Edward Gosling of London marrin^r plaint. ag^t William Henderson Def^t for withholding the Summe of twenty Eight pounds fifteen Shillings sterling mony which the s^d Gosling did deliver unto and entrust with the s^d Henderson in the month of Decemb^r 1672. who promised to repay and deliver back the s^d Summe to s^d Gosling or his order on demand as wilbee made appeare by Evidence with just damages &c. The parties joined issue by consent and after the complaint Letter of Attourney and Evidences in the case produced were read & committed to the Jury which remain on

file with the Records of this Court The Jury brought in theire verdict they found for the Defend^t costs of Court allow^d Forty one Shilling
Execution issued Janur^o 30. 77

WAY agt. KNOTT

L^t Richard Way plaint. William Knott Defend^t The plaint. withdrew his action.

TOWER to BLOWERS

William Tower personally appearing in Court confessed Judgem^t ag^t his Estate and person for the Summe of Sixteen pounds ten Shillings & six pence to bee paide in mony unto Piam Blowers or his Lawfull Attourney according to bill on file.

SEDGWICK to WALDRON

Robert Sedgewick personally appearing in Court confessed Judgement against his Estate and person for the Summe of Forty one pound thirteen Shillings three pence to bee paide in mony unto Jsaac Waldron according to bill on file.

Execution issued 31^o 8^{br} 1677@

PRATT to HUTCHINSON

Timothy Pratt personally appearing in Court confessed Judgement against his Estate and person for Fifty Shillings Six pence in mony due upon acco^t with charges unto Eliakim Hutchinson.

Execution issued. Nov^r 14^o 1677.@ [478]

LONGFELLOW to HOLMES

William Longfellow appearing in Court confessed Judgement ag^t his Estate and person for two fat Oxen and one fat Cow to bee deliurd in Boston according to Obligation on file unto Michael Holmes or his order within ten dayes or to pay Fourteen pounds in mony.

Execucion issued for £.14. m^o 9^{br} 10th 1677.

SHRIMPTON &^a Fin^d

m^r Samuel Shrimpton & Samuel Gore were Fined thirteen Shillings and four pence in mony per peice for not attending the Service of the Jury of Tryals.

PADDY her Guardian

Rebecca Paddy appearing in Court made choice of m^r Anthony Checkley to bee her Guardian; which hee accepted and the Court approved of, hee giving Security according to Law accordingly himselfe in one hundred pounds and Leonard Dowden and Tho: Paddy Sureties in £.50. apeice were respectively bound to the Treasuro^r of the County for performance of his trust according to Law, and to bee accountable for her portion when called thereto.

Order to m^r BENDALLS adm^{rs}

It is Ordered that m^r Bendalls Adm^{rs} do pay the Credito^{rs} to that Estate theire just debts with all Speed that is such Credito^{rs} as have entred theire claims.

Order about Streight pond bridge

It is ordered that the Bridge over Streights pond River betwixt Hingham and Hull bee repaired by the next Court of this County in the severall parts of it by those whome it doth belong unto on the penalty of three pounds in mony to bee forfit^d to the County.

Order about the widdow POPES mony

It is ordered that upon Security given for payment of Six pounds in mony yearly unto the Deacons of the first Church in Boston during the Life of the widdow Pope Relict of Ephraim Pope, the Fifty pounds formerly ordered her bee Released.

HOBART his Licence

Liberty is granted to Capt^a Ioshua Hobart of Hingham to retaile strong waters out of dores not Less then a quart at a time.

BURR Sent^a

Nathanael Baker of Hingham complaining against Simon Burr junio^r of Hingham for assailing and wounding the s^d Baker on the Road as hee was Rideing from Hingham to Scituate; s^d Burr being called desired to bee tryed by a Iury which was granted him: The complaint and Evidences produced being read & committed to the Iury: The Iury brought in theire Verdict: they found him guilty of

the complaint exhibited ag^t him. The Court on consideration of the case Sentenced him to bee Severely whip't with thirty Stripes, to pay unto Nath: Baker ten pounds in mony damage and to give bond with [479] Sureties for his good behavio^r till the next Court of this County of twenty pounds himselfe and £.10. apeice two Sureties and to pay fees of Court and prison standing committ^d &^a Afterwards upon his petition The Court remitt^d his corporall punishm^t upon his paym^t of ten pounds mony fine.

Freeman Sworn

Iohn Chubbuck of Hingham tooke the oath of freedom.

DANSON Fin^d 40^s

George Danson convict of Vilifying Constable Willys in the Execution of his office Sentenced to pay Forty Shillings in mony fine to the County or to bee imprisoned until the next Court & to pay fees of Court.

COWLEY Sent^a

Richard Cowley convict of beating his wife threatning of her & other misdemeanors Sentenced to bee severely whip't with twenty Stripes, or to pay five pounds in mony fine to the County & charges of prosecution with fees of Court standing committ^d &^a

YOURING Fin^d 10^s

Dorcas Youring convict by her own confession in Court of Ironing Cloths upon a publique Fast. 5th July Last past. Sentenced to pay ten Shillings in mony fine to the County and fees of Court standing committ^d &^a

STRETTON Fin^d 10^s

Eliphah Stretton convict in Court of doing Servile worke on the Sabbath day by working with her needle Sentenced to pay ten Shillings in mony fine to the County and fees of Court.

SHIPPEN Fin^d 10^s

Edward Shippen presented for opening his Shop windows upon the publique day of Fast. 5th Iuly. own^d that his Shop was opened by his Servant. Sentenced to pay ten Shillings in mony fine to the County & fees of Court.

HUTCHINS Fin^d £.5.

Mary Hutchins convict in Court of entertaining inmates or Lodgers contrary to the minde of the Select men &c. Sentenced to bee whip't with ten Stripes and to pay fees of Court standing committ^d &^a upon her Submission The Court remitt^d her whipping upon paym^t of five pounds mony fine.

EVERED admonish't

Edward Evered convict by his own confession in Court of killing a Sheep late on a Saturday night but excused it with his being a stranger and unacquaint^d with the customs of the Country and promising to reform was admonish't and ordered to pay fees.

STRETTON & SOMES Fin^d 20^s

Eliphal. Stretton & Iohn Somes convict of absenting themselves from the publique worship on the Lords days having formerly been alike convict. Sentenc^d to pay ten Shillings apeice in mony fine to the County & fees of Court. [480]

SHIPPEN etc. Admonish't

Edward Shippen m^r Phillips George Danson & William Mumford present^d for absenting themselves from the publique worship on the Lords dayes being first time of conviction were admonished & ordered to pay fees of Court.

CLEEVES his Estate ordered

For a Setlement of the Estate of William Cleeves Late of Roxbury deced. It's ordered that Sarah his Relict have and enjoy the whole Estate left by her s^d husband, Shee paying thereout unto the four Children Left by s^d Cleeves as follows To the Son ten pounds and to the daughters five pounds apeice when they attain theire respective ages or marriage which shall first happen; Shee bringing them up till they come of age to bee put forth: And the house and Land to stand ingaged for the Childrens portions.

CURTICE his Liberty

Liberty is granted unto Iohn Curtice untill the next Court of this County for the bringing in an Inventory of the Estate of his Brother Ephraim Curtice deced.

WALKER his Estate Settled

For a Settlement of the Estate Left by Obadiah Walker deced. hee Leaving onely one Child being a Son, the Inventory of his Estate (debts being paid) amounting to about Nine hundred & Fifty pounds cleere Estate: It's ordered that the house and Land in Boston Valued. at: £.260: bee reserved for the Child of s^d Walker; and also that hee have two hundred pounds more in mony paid unto him together with the s^d house and Land when hee comes of age; the widdow to have the improvement thereof for the bringing up the Child till hee come of age to choose a guardian: The Remainder of the Estate is ordered unto Sarah Relict of s^d Obadiah and her heires for ever, in Leiu of her dowry; and if any more Estate hereafter appeare the Child is to have an equall part thereof with the mother.

HOLLEDAY Sent^a

Iohn Holleday being imprisoned till this Court to answer for his stealing a horse bridle and saddle from L^t Iohn Osgood: The Court having heard what was alleaged & proved ag^t him for his notorious Lying & deceitfull practices Sentenced him to bee severely whip't with thirty Stripes and to pay charges of prosecutⁿ & fees of Court and prison standing committed &c. and order that in case hee cannot make payment L^t Osgood make Sale of him in any of his Maj^{ties} Dominions.

COMBS their Guardians

m^r Daniel Turil Senio^r & m^r Iohn Conney Senio^r are appointed to bee guardians unto Iohn Combs & Mary Combs Children of Iohn Combs sometime of Boston deced. they accepting thereof & giving bond according to Law. [481]

WARREN his Guardian

Elisabeth Warren widdow is appointed to bee Guardian unto Nathanael Warren Son of her late husband John Warren deced. by his former wife.

Freeman Sworn

John Weld Junio^r of Roxbury tooke the oath of Freedom of this Colony.

DAVIS and his wife Fin^d £.5.

Thomas Davis of Meadfeild and Elisabeth his wife convict in Court by theire own confession of committing Fornication having carnall fellowship together before marriage, Shee having miscarried of an illegitimate Child; Sentenced to bee whip't the s^d Thomas with fifteen: and Elisabeth with ten stripes or to pay five pounds mony fine to the County & fees of Court standing committ^d &^a

The Court adjourned untill Thursday. 22^o Nov^r at nine forenoon.

Nov^r 22^o 1677@

The Court met according to Adjournment.

[HAMMOND appointed]

Captⁿ Laurence Hammond is appointed to bee of the Committee in the buisness between Major Tho: Clarke and the Guardians of Iohn Hands Exec^r &c. in the room of m^r Tho. Deane.

Order to KNIGHT

Ordered that m^r Richard Knight Adm^r to the Estate of Iohn Paine deced. reveiw the Accion commenced by m^{rs} Elis^a Newman (one of the Exec^{rs} of the Last will of Gov^r Winthrop) agt. that Estate, at Jpswich Court.

EVERENDEN Fin^d £.5.

Ruth Everenden formerly Ruth Lock convict by her own confession in Court of committing Fornication with Walter Everenden who is since her husband; Sentenc^d to bee whip't with fifteen stripes or to pay five pounds in mony fine to the County & fees of Court.

SMITH ordered to bee sent out of the Country

John Smith a Vagrant idle person who hath formerly been whip't out of Town for a Vagabond; but is since returned and imposeth himselfe upon the Town of Boston without approbation of the Select men and contrary to former order of this Court and is very Suspicious both in words and carriages of being an evill minded person, having lyen a considerable time upon charge, and refusing to worke for the

discharge thereof or his own maintenance: The Court orders that the s^d John Smith bee disposed of by Sale out of the Country for Satisfaction of his charges by advice of the Honord Governo^r

Order to FRA: HUDSON ab^t HOWLETS Estate

Francis Hudson informing this Court that there were some debts yet unpaid due from the Estate of John Howlet [482] deced. to some persons beyond Seas and that there was Seventy three pounds mony, part of the s^d Estate in his hands Lying to respond the same, and hee moving to bee freed from his Obligation for his daughter Howlets due administracion The Court orders the s^d Hudson to deposite the mony in the hands of m^r Edward Tyng Treasuro^r for the County for securing the payment of s^d debts; which being done the Clerke is ordered to deliver him up his bond: This mony was paid into the Treasuro^r 27^o X^{br} 77. in my presence & the bond is given up.

At a meeting of the Governo^r & Magistrates of the County Court of Suffolke. x^{br} 27^o 1677

Present

JN^o LEVERETT Esq^r Gov^r

EDW^d TYNG
JOSEPH DUDLEY } Esq^{rs}

WHITTINGHAMS Guardians

William Hubbard of Jpswich gent. the onely Executo^r of this Colony of the Last will of W^m Whittingham sometime of Boston gent. deced. is appointed to bee Guardian unto Mary Whittingham, Elisabeth, Richard, Martha and William Whittingham the five Children of the s^d defunct.

as attests. Js^a Addington Cler.

WILCOCKS to PARTMAN

Owen Wilcocks personally appearing before John Leverett Esq^r Governo^r and Edw^d Tyng Esq^r Assist. Ianur^o 24^o 1677. confessed Iudgement ag^t his Estate and person unto Elias Partman for three pounds three Shillings six pence to bee paid in mony.

attests. Js^a Addington Cler. [483]

At a County Court held at Boston. January. 29^o 1677@

Present

JN^o LEVERETT Esq^r Gov^r
SIMON BRADSTREET Esq^r

EDW^d TYNG
THO: CLARKE
JOSEPH DUDLEY } Esq^{rs}

Grandjury Sworn

Captⁿ Geo: Barbur
Arthur Mason
Henry Phillips
Theoph: Frarey
Jon^a Balston Sen^r
Tho: Moore

Gyles Pason
John Weld
Tho: Davenport
Isaac Jones
George Sumner
Edw^d Richards

Henry Wight
Rob^t Parmiter
Tho: Dun
Jn^o Tower Sen^r
Jn^o Ripley Senio^r

Jury of Tryals Sworn

Captⁿ Jn^o Jacob
Nathan^{ll} Byfield
Henry Mountfort
Nath^a Peirce

Jn^o Davis
Tho: Bishop
Joseph Weekes
Jn^o Pearson

Geo: Lyon
Tho: Aldridge
Jn^o Bass
Sam^{ll} White

[COOKES v. WINCOLL]

Elisabeth Cooke Executrix and Elisha Cooke Executo^r of the Last will and Testam^t of the late Rich^d Cooke deced. or either of them plaint^s ag^t Captⁿ John Wincoll Def^d^t in an action of the case for withholding the Summe of Sixteen hundred pounds in currant mony of New-England due by bond under his hand and Seale bearing date. 26^o July. 1671. with other due damages &^a. . . . The Jury . . . found for the plaint^s the Forfiture of the bond & costs of Court. Vpon request of the Def^d^t & hearing of both partys The Court chancered this forfiture to Nine hundred Seventy two pounds Eleven Shillings mony and costs of Court granted thirty Eight Shillings.

Execution issued. 18^o Feb^{ry} 1677/8@

[HARRIS v. LAMB]

Rich^d Harris plaint. ag^t Abiel Lamb Def^d^t in an action of debt of Sixty pound in mony due by bond bearing date. March. 7th 1676. under the hand & Seale of s^d Lamb with all other due damages etc. . . . The Jury . . . found for the plaint. forfiture of the bond Sixty pounds in mony & costs of Court.

[BARTON v. WOODBRIDGE]

Isaac Barton plaint. ag^t Thomas Woodbridge Def^{dt} This action issued by the defend^{ts} confession of a Judgem^t

[ALFORD v. WAY and ENDICOTT]

Benjⁿ Alford Attourney of John Sweeting of London Adm^r to the Estate of his Son John Sweeting deced. plaint. ag^t L^t Rich^d Way and John Endicott Def^{dt} The plaint. withdrew.

[OUGHTRED v. WHETCOMB]

Charles Oughtred Attourney of Sam^l Sheafe of London plaint. ag^t James Whetcomb Def^{dt} The plaint. nonsuted in failure of process, producing a bond wherein three persons were bound, and but one Specified in the process.

[HUTCHINSON v. SMITH]

Eliakim Hutchinson plaint. ag^t John Smith Def^{dt} The plaint. withdrew his action.

GREEN agt. RAYNSFORD

William Green plaint. ag^t John Raynsford David Raynsford and Solomon Raynsford Def^{ts} in an action of Reveiw of a case or Action tryed at a County Court [484] held at Boston on the. 30th day of October Last, upon which tryall Judgement was given ag^t him and for the s^d Raynsfords the Land in controversy then and costs of Court allowed twenty Seven Shillings and eight pence and for all other due damages &c. . . . The Jury . . . found for the Defend^{ts} costs of Court: The plaint. appealed from this Judgem^t unto the next Court of Assistants & gave bond with Sureties for the prosecution thereof to Effect.

[Upheld by the Court of Assistants. Records, i. 109.]

WALKER ag^t HICKSON

Samuel Walker pl^t ag^t Walter Hickson Defend^t The plaint. was nonsut^d in failure of giving Summons

STODDARD agt. CUSHIN

Anthony Stoddard and Christopher Clarke Attournys unto Sampson Stoddard plaint. ag^t Jeremiah Cushin Defend^t in an action of the case for not paying the Summe of Fifty pound in mony due for wages unto him the said Sampson Stoddard for Service as a Mate in the Ship William whereof s^d Cushin was Master being about Eighteen months time and was in part of the yeare. 1672. and part of the yeare. 1673. with all other due damages &c. . . . The Jury . . . found for the Defend^t costs of Court.

GILL ag^t BELCHER

John Gill of Boston plaint. ag^t Katharin Belcher Administratrix to the Estate of Gregory Belcher late of Brantery Def^t in an action of the case for that the s^d Gregory Belcher hath not performed his promiss made upon the marriage of his Son with the plaint^s daughter in paying two hundred pounds as by a bond under hand and Seale. dat^d X^{br} 23^o 1662. may more fully appeare and for the uses therein expressed, these with all other due damages &c. . . . The Jury . . . found for the Defend^t costs of Court.

JOLES ag^t PHIPS

Thomas Joles plaint. ag^t William Phips Defend^t m^r John Walley and m^r Rich^d Middlecott appearing as Attournys to Joles, but the Court Judgeing their power not reaching to actions of this nature were non Suted.

PHIPS ag^t WALLEY

William Phips plaint. ag^t John Walley Def^t The plaint. was non-sut^d in failure of process; Suing for breach of promiss and not assigning in what nor when. [485]

PHIPS agt. JOLES

William Phips plaint. ag^t Thomas Joles Defend^t in an action of the case for not paying the Summe of three hundred and twenty eight pounds due for the building of a Ship of One hundred and Seventeen tun built by the s^d Phips and delivered by him to the

s^d Joles and by him s^d Joles occupied improved and disposed of whereby the plaintife is greatly damnified with all other due damages &c. . . . The Jury . . . found for the Defend^t costs of Court.

MOON agt. RAWSON etc.

Robert Moone once of Boston but now of Roade Jsland or his Lawfull Attourney or Attournies plaint. ag^t William Rawson and John Pell or either of them Def^{ts} in an action of the case for refusing to deliver unto Ebenezer Moone Attourney to his Father Robert Moone possession of a house and Land Lying at the South end of Boston neere unto Captⁿ John Hulls house which house and Land is now in the hands & occupation of the afores^d Rawson & Pell but properly the Estate of the plaint. theire thus refusall being greatly to the plaint^s damage with all other due damages etc. . . . The Jury . . . found for the Defend^t costs of Court.

YEALES ag^t BRONSDON

Timothy Yeales plaint. ag^t Robert Bronsdon Def^t in an action of the case for refusing to give unto the s^d Yeales either a deed of Sale for or possession of a parcel of Land Lying in the North end of Boston neere Merrys point which s^d parcell of Land the s^d Yeales bought of the s^d Bronsdon and hath paid him for and yet through the s^d Bronsdons Neglect cannot make improvement of which is greatly to the plaint^s damage with all other due damages &c. . . . The Jury . . . found for the Defend^t costs of Court.

EASTWICK agt. LEE

Pheasant Eastwick plaint. ag^t John Lee Defend^t in an action of debt of Forty Eight Shillings in mony as shall appeare by a note or otherwise upon the tryal of the case with all just damages &c. . . . The Jury . . . found for the plaint. Forty eight Shillings in mony & costs of Court allow^d twenty six Shillings 8^d

Execution issued 2^d feb^r 1677. [486]

DAVIE agt. HALL

Humphry Davie plaint. ag^t Ralph Hall of Exiter Def^{dt} in an action of debt of Seven pound Eighteen Shillings in mony and five thousand foot of Merchantable pine inch boards to bee delivered in Boston

for goods bought of him s^d Davie as by bill under the hand of s^d Hall. dat^d 5^o Nov^r 1674. shall appeare with all other due damages &c. . . . The Jury . . . found for the plaint. Seven pound eighteen Shillings mony and five thousand foote Merchantable pine inch boards to bee delivered in Boston in twenty four houres or in defect twelve pound ten Shillings in mony in all twenty pounds eight Shillings in mony and costs of Court allow^d thirty five Shillings eight pence.

Execution issued Febr 19^o 1677.

LIDGETT ag^t SMITH

Elisabeth Lidgett Executrix of the Last will & Testam^t of the late m^r Peter Lidgett or her Attourney plaint. ag^t John Smith Merch^t Defend^t in an action of debt of ten pounds Seven Shillings and a penny due by booke as per adjustm^t of Acco^t with the s^d Peter Lidgett on the. 31^o day of March. 1676. as per Evidence thereto may appeare with all due damages &c. . . . The Jury . . . found for the plaint. Ten pounds Seven Shillings & one penny in mony and costs of Court grant^d twenty three Shillings eight pence. The Defend^t appealed from this Judgem^t unto the next Court of Assistants who gave bond with Sureties for the prosecutⁿ thereof to Effect.

[S. F. 1692.3

John Smith his reasons of appeale from y^e Judgement of a County Court held at Boston January 29. 1677. in an action commenced agst him by m^{rs} Eliz: Leigett Executrix to m^r Peter Leigett deceased

1st Because the then plaintiffe sues for Ten pounds seven Shillings and a penny, due by booke as per adjustment of acc^t The 31th of of March 1676 [&c] and produced not y^e booke of acc^{ts} Vpon which any such adjustment was made, nor any perticular Acc^t extracted thence, to leave wth y^e Jury as matter of Evidence, Although The Appeal^t often demanded that the Bookes of y^e deceased wherein The Appeal^{ts} acc^t was placed might be brought into Court. That soe the Appeal^t might have Assign'd or Evinced the Error. vpon y^e supposed Adjustment, Or, That m^r Charles Leigett, or M^r Deering might have Verified theyre Evidence, & demonstrated that there Evidence contained the whole Truth relating to y^e Case — And as it is Vsual in all Courtes where Actions Vpon acc^{ts} or Adjustm^{ts} of acc^{ts} by booke; are entertain'd: soe is it Absolutelie necessary, where Bookes are not burnt or lost, that the bookes be prodused — That soe they may be examined: Mistakes Vpon acc^t (though a ballance be ignorantly Inconsiderately or Vpon a Supposition owned, being noe payment (Errors in acc^{ts} being allways excepted). And when they are found though after a ballance or Adjustment: are allways allowed Either by the ingenuitie of y^e partye or y^e

sentence of the Judge. Now. Had m^r Leigetts' Leiger & Cash Book, been produced The appeal^t conceives hee could have readilie demonstrated a materiall mistake, as well in m^r Charles Leigetts & m^r Deerings oathes Viz^t that the 10^l now in controversie was not more Then y^e Appeal^t. had Credit^t for in those bookes, The Appeal^t presumeing that his Credit^t standes faire in y^e s^d bookes (if not Vnjustlie altered) for that Ten poundes. Viz^t for 130^{lb} whereas m^r Charles Leigett in an old acc^t brought into Court gave Credit^t for noe more then 120^{lb} — This that is allreadye Alledged It is humbly supposed may be sufficient to show the Error in the Judgement appealed from; Neither y^e booke of acc^{ts} nor any Exemplification from y^e Same; Vpon w^{ch} the adjustment was made being brought into the Court, Although The action had a most necessary reference There Vnto And dependance Therevpon

But for y^e cleare Vnderstanding of This honourd Court & Jurie — The appeal^t holds it needfull to declare the matter Vpon wch the action arose, as to y^e former Court he did brieflie declare. Viz^t. The Appeal^t in y^e moneth of 8^{ber} 1674. bought of m^r Peter Leigett Goods, Provisions & Pipe staves, To y^e Value of 533^{ll} 3^{sh} 1^d — for w^{ch} he was to pay in. 6. monthes if Convenientlie hee could M^r Leigett promiseing that hee would not presse the Appeal^t if payment were made in Twelve monthes As the appeal^t if it were needfull can depose, That y^e depon^t payd y^e greatest part of y^e s^d money wth in six monthes, & That the wholl (expt one hundred & twentie poundes was paid in Eight monthes Ten dayes & in three monthes more or lesse the whole payment was Completed As the Appeal^t Concievd to m^r Leigetts satisfaction by a bill for one hundred & Twentie pounds payable by m^r Violl; But soe it was That m^r Leigett showing Lenitie to m^r Violl recieved not the whole summe soe soon as was expected; And Allsoe found vpon counting 130^{ll} m^r John Coney paid m^r Leigett Ten poundes to be wanting for w^{ch} m^r Charles Leigett gives his reciept to y^e said Coney w^{ch} occasioned some agitation between m^r Peter Leigett & The appeal^t about an Adjustment & m^r Charles Leigett Affirming that hee had recieved noe more then one hundred & Twentie poundes from Coney, And the appeal^t not haveing accounted wth s^d Coney nor taken vp m^r Charles Leigetts reciept, might, vpon the supposition of The truth of m^r Charles Leigetts word, acknowledge the ballance from m^r Violl & himsele to be. 60^{ll} 7^{sh} 1^d — But if hee did it was Vpon that supposition and noe other groundes, And this will manifestlie appeare if the Court & Jurye please to Compare, The oath given Jnto Court by m^r Leigett with his reciept. The Articles of y^e 29. Aprill 1675 Gives credit^t to y^e appeal^t for noe more then 120^{ll} The reciept dated y^e same day for money from y^e same person speakes 130^c And this reciept is owned by m^r Charles Leigett, or Else might have been proved by m^r Coney Otherwise soe that the errour pretended to be adjusted is Evident.

And whereas it was Alledged that Vpon y^e Consideracion of y^e Ten poundes that miscarried between M^r Coney & m^r Leigett The appeal^t was willing to Allow interest to raise the ballance to y^e summe sworne to. The Appeal^t. Answers That it had been necessary for y^e Verifieing that Allegation That y^e bookes had been produced, That soe y^e state of accounts and Summe charged for interest (if any had been) might have Appeared.

But the Appeal^t certainlie Knows that m^r Peter Leigett was a man of more Ingenuitie and worth then to demand, much lesse to Charge Vnreasonable interest, where hee had soe good payment, or if hee had The appeal^t was better informed in a way of Trade, then to promise and Consent to any Interest, or if it

had been practicable to pay interest in such cases, The Appealant should not have consented to y^e summe demanded; The vtmost exaction if any had been due being but about four po[unds] Thirteen shillings. [*The rest is a recapitulation.*]

S. F. 1692.4

Richard Way Attorney to Eliz^a Lidgett his answers to Iohn Smith his Reasons of Appeale

Whereas In^o Smith in his Reasons speakes of the sum of money sued for by book in the last County Court and saith that the book of accounts on which the adjustment was made was not produced —

To put the most Charitable Construction thereon it may rather be imputed to the infirmity of his memory occasioned by his age then from any p^rmeditated designe so boldly to give und^r his hand what the Honrd Court and all that were then p^rsent will Contradiet him in; for the book was in open Court shewed to the Jury & withall he adds that the book was refused though he himself did often demand it; now it is judged the Case was to be heard by the Bench and Iury the Bench to require or demand what they see necessary in the Case, had there been any difficulty so that I knew not I knew not M^r Smith Looked on himself to have equall Comanding or demaunding power with the Judges of the Court in w^{ch} he putts the stress of his Reasons which is very unreasonable he also saith had the book been there he might have assigned or evinced the error by Assigning it is supposed according to the meaning of the word he would have appointed in his behalf or substituted another to pay his debt, being a grievous thing to do himself w^{ch} is y^e only Error he so much stumbles at his Creditor seeking her right of him,

As for what he saith about the evidence of M^r Henry Deering & Charles Lidgett it needs no demonstration before there is an accusation

For the other part of his lifeless reason which seems to have an head but no body therefore lifeless for he begins with a first but hath no second or rather like a monster with 2 heads hath two firsts One after another so that the vast bulk or length of them together with thier forme rend^{rs} them more frightfull to a Iury then evinceing the matter

Further sd Smith saith that He bought of M^r Peter Lidgett a parcell of goods to pay him in 6 monthes which were accordingly entred in ditto Lidgett's books but not added if Conveniently he could & to say that greatest part of the money was paid in 6 monthes and the whole in 8 monthes & 10 dayes shews that M^r Smith knew not how the account stood by an other, nor keeps any books of his owne, and because the money was not pd according to Contract he adds that he knew better what belongs to trade then to pay forbearance it is an ill signe of not much knowledg in that kind when a man knowes not his owne trade or stock how should then he p^rtend to a generall knowledg of trade for a man to engage paym^t of money when his stock will not bear wth a Compliance according to time argues not much und^rstanding neither is it the Custome of merchants

Further the Appealant speaks of an acc^o given into Court but saith not whose acco^t neither owned nor proved nor und^rwritten by any so not pertinent to this Case he speaks of rec^{ts} & mistakes over & over againe but the matter is not to be as he would have it

£10:7^s:1^d: is sued for due by book from or by such an adjustment haveing no reference to form^r transactions of any kind the book is produced and 2 evidences

positively sworne to the truth of it plainly makeing it a true debt upon w^{ch} the form^r Jury according to thier oath both by law & evidence grounded thier legall judgment And it is hoped that this Honrd Court and the p^rsent Iury will see just cause to Confirme the same

per mee Richard Way
Athorney as afforsaid

Depositions, bills of costs, etc., are on file in S. F. 1692. 3-10.

The Court of Assistants (Records, i. 113) reversed the former judgment and found for Smith with 35*s* 8*d* costs.]

HAYWARD ag^t HOLBROOKE

Samuel Hayward plaint. ag^t John Holbrooke Jun^r Def^{dt} in an action of the case for the non payment of ten pounds in New-England mony due to the s^d Hayward as appeares by an Obligatory bill bearing date. 3^d April: 1675. with interest & all other due damages etc. . . . The Jury . . . found for the plaint. ten pounds mony according to bill & costs of Court.

EDWARDS agt. NASH

Thomas Edwards or his certain Attourney plaint. ag^t James Nash Defend^t in an action of the case for breach of Covenant dat^d in Octob^r 1673. in which Covenant the s^d Nash was obliged to Erect and build for the s^d Edwards a wharfe according to the dimentions in the s^d Covenant expressed and fill it & make Slip unto it which hee hath not done whereby the plaint. is greatly damnified with all other due damages &c. . . . [487] The Jury . . . found for the plaint. three pounds ten Shillings in mony and costs of Court, grant^d twenty six Shillings.

LEGG ag^t MEERES

Samuel Legg plaint. agt. James Meeres Defend^t in an action of the case for that hee the s^d Meers refuseth to pay unto the s^d Legg the Summe of twelve pounds in mony or thereabouts due for disburstments upon John Meers in the time of his Sickness in London and for his funerall charges there to which John Meeres the s^d James Meeres was by the County Court of Suffolke approved to bee Guardian and as so entred upon possessed & improved the Estate which belonged to the s^d John Meeres &c. with due damages. . . . The

Jury . . . found for the plaint. Eleven pounds Seventeen Shillings Seven pence mony & costs of Court grant^d two & twenty Shillings & ten pence.

LEGG ag^t FLOOD

Samuel Legg plaint. ag^t James Flood Defend^t in an action of defamation for abuseing of the s^d Legg by uttering against him severall base and scurrilous words, whereby severall men that hee was about Shipping of were discouraged from his Service and hee thereby disappointed which was to the defaming of him in his name & credit and hindring him from proceeding in his buisness whereby hee is greatly damnified with all other due damages &c. . . . The Jury . . . found for the plaint. that the Defend^t at the next County Court of Suffolke after his arrivall in New-England shall make an acknowledgem^t to the Satisfaction of the Court or pay twenty pounds mony, & costs of Court. — allow^d twenty Eight Shillings ten pence.

Execution issued for costs. 24^o July 1679. the Defend^t having made an acknowledgem^t

[See above, pp. 858–60, and Legg v. Flood, below, p. 1054.]

ROSE ag^t ALLEN

Roger Rose plaint. ag^t Deacon Henry Allen Defend^t in an action of the case for illegally possessing himsele of a parcell of Land Lying at the South end of the Town of Boston neere John Harrisones the Rope maker improving of it & refusing to deliver possession of the s^d Land unto the plaint. whose Land it is as may and will appeare by his deed, whereby hee is damnified & his title defamed with other due damages &c. . . . The Jury . . . found for the Defend^t costs of Court Fifteen Shillings.

Execution issued. 20th Januar^o 1678.

DOWDEN agt. HAYMAN

Leonard Dowden plaint. ag^t Samuel Hayman Defend^t The plaint. withdrew his action. [488]

HAYMAN ag^t DOWDEN

Samuel Hayman plaint, ag^t Leonard Dowden Defend^t The plaint. withdrew his action.

DOWDEN ag^t DELL

Leonard Dowden Attourney of Henry Sandiford plaint. ag^t Joseph Dell Defend^t The plaint. withdrew his action.

JONES ag^t WILCOCKS

John Jones plaint. ag^t Owen Wilcocks Defend^t The plaint. was nonsut^d upon non appearance

HOARE ag^t ALLEN

John Hoare assigne of John Harbour plaint. ag^t Joseph Allen Defend^t The plaint. was nonsut^d upon non appearance.

CUTLER agt. CUTLER

Thomas Cutler plaint. ag^t Samuel Cutler Defend^t for an account of his Fathers Lands how they are disposed that were betrusted with the s^d Samuel with all just and due damages &c. The Attachm^t and a Record of grants out of the Town Booke of Hingham being all the papers produced in the case; which were read committ^d to the Jury and are Lying on file with the Records of this Court: The Jury brought in their verdict, they found for the Def^{dt} costs of Court.

DAFFORN ag^t LATTIMORE

John Dafforn plaint. ag^t Christopher Lattimore Def^{dt} The plaint. withdrew his Action.

PORTER ag^t WATTS

Rhoda Porter plaint. ag^t Thomas Watts Defend^t in an action of the case for that the s^d Watts hath not secured or indempnified the s^d Porter for what damage may accrue unto her by ingageing to pay for the s^d Watts unto m^r Edw^d Shippen & William Harrison the Summe of three pounds six Shillings in mony with other due damages &c. . . . The Jury . . . found for the Defend^t costs of Court.

GILLAM ag^t PROUTT

Benjamin Gillam plaint. ag^t Timothy Proutt Sen^r Def^{dt} The plaint. withdrew his action.

LEVERETT agt. WENSLEY

Hudson Leverett Adm^r to the Estate of Bezaliel Payton dece^d plaint. ag^t John Wensley & Elisabeth his wife Def^{dt} The plaint. was nonsut^d in failure of process.

LEVERETT agt. DOWDEN

Hudson Leverett Adm^r to the Estate of Bezaliel Payton dece^d plaint. ag^t Leonard Dowden Def^{dt} in an action of the case for unjustly and illegally possessing himselfe of a house and Land in Boston which was the proper Estate of the afores^d Bezaliel Payton and by violence forceing the afores^d Hudson Leverett out thereof, who was by the Hono^r^d County Court appoint^d Adm^r thereunto whereby the plaint. is greatly damnified with other due damages. [489]. . . . The Jury . . . found for the Defend^t costs of Court.

[Cf. Dowden Fined, below, p. 890.]

OXE ag^t HINDERSON

Robert Oxe plaint. ag^t William Hinderson Defend^t in an action of debt of twenty Eight pound sixteen Shillings in mony due by booke as shall appeare by Acco^t with all other due damages &c. . . . The Jury . . . found for the plaint. Eighteen pounds mony and costs of Court twenty three Shillings two pence.

VSHER to VSHER

Hezekiah Vsher plaint. ag^t John Vsher Defend^t in an action of the case to the Value of three thousand pounds currant mony of New-England due by Obligation under the afores^d John Vshers hand & Seale to the afores^d Hez: Vsher dat^d 19^o Aug^o 1676. w^{ch} was given by the afores^d John Vsher for the true performance of Covenants and agreements &c. on his part which is not perform^d &c. . . . The Jury . . . found for the Def^{dt} costs of Court.

LEVERETT agt. WINCOLL etc.

John Leverett Merchant plaint. ag^t John Wincoll and Thomas Broughton or either of them Defend^t in an action of the case for withholding the Summe of three hundred pounds currant mony of New-England due by bond under their hands & Seales jointly and

severally dat^d Sept^r 17^o 1669. with due damages &c. . . . The Jury . . . found for the plaint. Forfiture of the bond three hundred pounds mony and costs of Court. Vpon Request of the Defend^t & hearing of both partys the Court chancered this Forfiture to Eighty Six pounds Fifteen Shillings eight pence in mony and costs of Court thirty Shillings.

[S. F. 1676

John Leverett Esq^r is Debito^r

		<i>l s d</i>
1670		
August 6.	To M ^r ch. boards sent by Gill: 11400: at 35 ^s per. ^m . . .	19:19:00
Sept ^r 5.	To m ^r ch. boards sent by Philbrick: 4240. at 35 ^s per mille is as acc ^{ted} by the Governo ^r	02:03:00
Sept ^r 28 ^o	To m ^r ch. boards sent by Howard 14000. at. 35 ^s per ^m . .	24:10:00
1671	To m ^r ch. boards sent by Jn ^o Poore at twice 26500. foots	
July	at: 26 ^s 3 ^d per mill is	34:15:07½
1672	To M ^r ch. boards sent by Jn ^o Poore. 15000 foots at: 26 ^s 3 ^d	
July. 14	per mille	19:13:09
July 22 ^o	To M ^r ch. boards sent by Jn ^o Poore 13500 foots at: 26 ^s 3 ^d	
	per mille	17:14:04½
		<u>£118:15:09</u>
		<i>li s d</i>
	John Leverett Esq ^r per Contra is Credito ^r By Bond . .	143:12:00
		118:15:9
	Rest to ballance	24 ^{li} :16:3

February. 1st 1677

Thomas Broughton

The Summes above are the payments made on the bond per Contra, and are Reasons for chancering the bond, which the Governo^r Sues John Wincoll for.

Till the beginning of the yeare. 1672. a ballance of this Acco^t is made up in the Governo^rs Booke with my hand to it and thereupon the receipts which should bee my defence were taken up by him; Jf it please the Honord Governo^r that by himselfe alone wee may thereby cast up what principle and interest is due to him on this bond, from thence himselfe may bee Judge of the Chancery in this case, and it stand in force as if the Court had done it; which with humble thankfulness shalbee acknowledged,

By yo^r Servant

Thomas Broughton

. . . true Coppie . . . Js^a Addington Cler]

HUNTING Fin^d 10^s

John Hunting of Dedham was fined ten Shillings in mony to the County for not attending the Service of the Jury of tryalls at this Court according to Summons; But upon his after appearance and request The Court remitt^d five Shillings thereof; hee paying the other five down presently.

WOLFE to FARLEY

Henry Wolfe personally appearing confessed judgem^t against his Estate and person for Six pound one Shilling sixpence to bee paid in mony to Michael Farly of Jpswich or his Lawfull Attourny.

Execution issued: Feb^r 6^o 1677 [490]

WOODBIDGE to BARTON

Thomas Woodbridge personally appearing in Court confessed Judgement against his Estate and person for one hundred and Forty pounds Lawfull mony of New-England being the Forfiture of an Obligation dat^d 14^o June. 1677. paiable to Jsaac Barton or his Lawfull Attourny craving a chancery of the s^d Forfiture: Upon hearing of both partys: The Court chancered this Forfiture to one hundred and Six pounds Eighteen Shillings Lawfull mony of New-England.

Executⁿ issued. 20th Feb^{ry} 1677/8.

Freemen Sworn

Nathanael Gay, Thomas Alderidge, Nathan^{ll} Kingsbury John Weare, William Avery & Jonathan Avery all of Dedham tooke the Oath of Freedom of this Colony.

Nic^o Negro Sentenc^d

Nicholas Negro complained of for presenting a gun at his Master John Roy of Charlestown Loaden with two Iron Sluggs and wounding him with a knife: upon hearing of the case The Court Sentenced s^d Nicholas to bee severely whip't with twenty nine Stripes and to pay fees of Court standing committ^d upon his Masters Acco^t untill hee dispose of him out of the Country.

JOHNSON Sentenc^d

William Johnson Servant of Thomas Tuck of Charlestown complained of and prosecuted by his s^d Master for his running away and absenting of himselfe from his Service; as also for abuseing and striking of the Constable: Upon hearing of the case The Court Ordered him to fulfill his Jndenture to his Master Tuck in three yeares & halfe Service from this time or to pay unto his s^d Master twenty pounds in mony charges of prosecution & to pay Forty Shillings in mony fine to the County, twenty Shillings in mony to the Constable for the abuse offered him and Fees of Court standing committ^d &c.

FARRINGTON his Guardian

Eleazer Farrington Son of John Farrington late of Dedham dece^d made choice of Nathanael Bullard of Dedham to bee his Guardian; whis s^d Bullard accepted and the Court approved, hee giving bond according to Law.

FARRINGTONS Guardian

Daniel and Hannah Farrington Son & daughter of the abovenamed John Farrington made choice of Thomas Metcalfe of Dedham to bee theire Guardian which s^d Metcalfe accepted and the Court approved hee giving bond according to Law.

FARRINGTONS Guardian

The Court appointed Mary Farrington Relict of s^d John Farrington to bee Guardian to her two youngest Children. [491]

BRISCO his Estate Settled

For a present Settlement of the Estate of Ezekiel Brisco late of Boston dece^d intestate (the debts owing from the Estate being first and with what convenience may bee paid) It is ordered that Rebecca his Relict have the benefit of the improvement of the whole Estate for her own and Childrens maintenance till they come of age.

LOVELL Fin^d 40^s

Phœbe Lovell of Weymouth convict of Fornication by her own confession in Court: Sentenced to bee whip't with ten Stripes or to pay Forty Shillings mony fine to the County with charges of prosecution Fifteen Shillings mony and fees of Court standing committ^d &c.

[BUSHNELL's Estate]

Ordered that notice bee given to James Hill in Saybrooke who married with the widdow of John Bushnell that at the next County Court there wilbee a Settlement made of that Estate, one of the Children being married, and that in the meane time Dr Hawkins who Lives in the house pay no Rent without order of Court.

BARKER Sentenc^d

Benjamin Barker prosecuted by m^{rs} Lydia Scottow, wife of Capt^a Joshua Scottow for forging a writing or note & firming it with another mans name convict thereof by his own confession in Court: upon which hee received three pounds in mony from the s^d Scottow: Sentenced to stand three times in the pillory in Boston by the space of one hour at each time upon three severall Lecture dayes and to pay fees of Court & prison standing committ^d &c. and to pay unto m^{rs} Scottow Six pounds in mony and order that hee bee sold for the payment thereof not exceeding 4: yeares.

Dorchester Clerke of y^e Writts

Deacon James Blake by the choice of the Town & approbation of the Court is appointed to bee Clerke of the Writts for the Town of Dorchester.

COLLINS Sentenc^d

John Collins Taylor complained of by Susanna Higgins for taking of two yards and a quarter of Searge, three quarters and halfe quarter wide, to make s^d Higgins a wastcoat of; which was Judged to bee considerably too much, keeping it about $\frac{3}{4}$ of the yeare, making it too Little and receiving ten Shillings for making it: Sentenced to pay twenty Shillings in mony to the s^d Higgins, taking the wastcoat to his own Acc^o to bee admonish't and to pay fees of Court standing committ^d &c.

BARNHUM Sent^a

Elisabeth Barnhum convict by her own confession in Court of committing Fornication and having a bastard Childe chargeing one Roger Bennet to bee the Father thereof: Sentenc^d to bee whip't wth fifteen Stripes or to pay Fifty Shillings in mony fine to the County & fees of Court standing committ^d &c. [492]

HARRISON Sent^a

John Harrison present^d by the Grandjury for fighting and quarrelling in Sept^r Last: Sentenced to pay ten Shillings mony fine to the County charges of prosecution and fees of Court and to give in bond with Sureties of ten pounds for his good behavio^r untill the next

Court of this County standing committ^d &^a and accordingly himselfe principall in five pounds and John Gill and Joseph Holmes Suretis in 50^s apeice were bound to the Tr of the County for his good behavio^r

SMITH Fin^d 5^s

Robert Smith alike presented for quarrelling & fighting at the same time: Sentenced to pay five Shillings in mony fine to the County & fees of Court standing committ^d &c.

CHEENY Fin^d 5^s

William Cheeny alike presented for quarrelling & fighting at the same time Sentenced to pay five Shillings in mony fine to the County & fees of Court standing committ^d &c.

ATHERTON Fin^d 5^s

Watching Atherton alike present^d for quarrelling and fighting at the same time: Sentenced to pay five Shillings in mony fine to the County & fees of Court standing committ^d &c.

PHIPS Sent^a

William Phips being complained of & prosecuted by John Walley Attourny to Thomas Joles for that the s^d Phips did in a deceitfull and felonious way suddenly Seize and violently rend an Award out of the hand of s^d Walley and threw it into the fire and burnt it, which award was made by W^m Greenough & John Parmiter wherein s^d Phips was awarded to pay unto s^d Joles Eighty five pounds in mony: Upon consideration of the Evidences in the case produced, The Court Sentenc^d s^d Phips to pay five pounds mony fine to the County, and to pay unto John Walley & Rich^d Middlecot Attournys of s^d Joles Eighty five pounds mony or to give them bond for the Like value paible this instant Feb^r with charges of prosecution and fees of Court standing committ^d &c. Afterwards upon his humble petition the Court remitt^d one halfe of the fine.

Committee about CURTICE his Estate

This Court being informed by John Curtice Administrato^r to the Estate of his Late Brother Ephraim Curtice dece^d that by a present Acco^t & appearance of the s^d Estate and debts claimed from the same,

it doth prove insolvent: The Court therefore do impower and Commission m^r Anthony Stoddard and m^r John Joyliffe to bee a Committee to receive all such claims to the s^d Estate as shalbee given in to them within the space of Six months next following; all persons concern^d being hereby ordered to enter theire claims wth them, and they to make theire return to the Court of this County; & in the interim all process ag^t s^d Estate do cease. [493]

BURRS discharge

Upon due proclamation made Simon Burr jun^r of Hingham was discharged from his bond for the good behavio^r

Committee about SNOWS Estate

The Court Orders and impowres m^r Anthony Stoddard Cap^t John Richards and Deacon Henry Allen to bee a Committee for the inquiring into the present State and condition of the Estate left by Thomas Snow sometime of Boston dece^d & to heare what claim Captⁿ Wright can justly make out to any part thereof, giving opportunity to the Administrato^{rs} of that Estate and Captⁿ Wright of a debate about the same, making theire return at the adjournment of this Court.

AMORY his Estate ordered

For a Settlement of the Estate left by Simon Amory sometime of Boston Marrin^r dece^d amounting according to Inventory unto One hundred Fifty three pounds Eleven Shillings, with addition: Jt's ordered that Mary his Relict have the improvement of the whole Estate for her own maintenance and Education of her Child untill it attain twenty one yeares of age or marriage, and that then Shee pay out unto the Child the Summe of Seventy Six pounds mony, and to enjoy the whole remainder to her and her heires forever Shee giving Security for the Childs portion: And if more Estate hereafter appeare it is to bee divided after the same proportion.

PEARD his Estate ordered

For a Setlem^t of the Estate left by Robert Peard of Boston Marrin^r dece^d amounting according to Inventory to two hundred Forty four pounds: Jt's ordered that Margaret his Relict have the improvem^t

of the whole Estate left by her s^d husband for her own maintenance and education of the Child left by s^d Peard untill it come of age or marriage, and then the Child to have the house & Land, it being kep't in tenantable repaire in the interim, and the s^d Margaret to enjoy the whole movable Estate to her and her heires forever, together with the third of the house and Land during her naturall Life.

HORN Sent^a

Thomas Horn being charged by Elisabeth Crowder to bee the naturall Father of a bastard Child late born of her body, of which Shee made oath in Court: The Court declare the s^d Horn to bee the reputed Father of s^d Childe according to Law, and Sentenced him to pay unto the s^d Elisabeth two Shillings six pence per weeke in mony from the time of the birth of the [494] s^d Child unto this day and to give in bond of twenty pound for payment of so much for the future till the Court take further order and to pay fees of Court standing committ^d &c.

DICKENSON Sent^a

John Dickenson being prosecuted by Peter Eggerton for stealing his horse bridle and saddle: Upon consideration of the Evidences in the case produced The Court Sentenced s^d Dickenson to bee whip't with twenty Stripes or to pay Forty Shillings in mony fine to the County, to pay ten pound mony to Peter Eggerton with charges of prosecution and fees of Court and prison standing committ^d &c. and Order if hee do not make Satisfaction that s^d Eggerton dispose him in Service not exceeding four yeares.

[Dickenson later escaped from jail. See below, p. 911.]

RENNALLS Sent^a

John Rennalls an Italian being prosecuted by Simon Barnes for stealing twenty nine Beaver Skins out of his Slooppe Valued at twenty pound: Upon consideration of the Evidences in the case produced The Court Sentenc^d s^d Rennalls to pay unto Simon Barnes sixty pounds mony being 3^{b^{1e}} damages according to Law, and order that hee Sell him for to make Satisfaction, hee paying his prison charges & Court fees.

ROSE Fin^d 5^s

Roger Rose complained of for quarrelling & fighting with W^m Pitman Sentenced to pay five Shillings mony fine to the County and fees of Court, standing committ^d &c.

PITMAN Sent^a

William Pitman prosecut^d by Roger Rose for beating and abuseing him in the house of Thomas Wheeler wounding him with a quart pot fetching much blood upon consideration of the Evidences produced in the case The Court Sentenced s^d Pitman to pay ten Shillings mony fine to the County and to pay the Chyrurgion his charge for cure of s^d Rose and fees of Court standing committed untill hee performe this Sentence s^d Pitman appealed from the Judgem^t of this Court unto the next Court of Assistants, and gave bond with Sureties for the prosecution of his Appeale to Effect and good behavio^r in the meane time.

DOWDEN Fin^d

Leonard Dowden being bound over to this Court and prosecuted by Hudson Leverett for beating of him, Swearing and reproachfull Language ag^t the Court: upon consideration of the complaint and Evidences produced in the case: The Court Sentenc^d s^d Dowden to pay Forty Shillings in mony fine to the County [495] Forty Shillings in mony to Hudson Leverett and to give in bond of £.20: with Sureties for his good behavio^r untill the next Court of this County paying fees of Court standing committ^d untill hee performe this Sentence: s^d Dowden appealed from the Judgem^t of this Court unto the next Court of Assistants and gave bond with Sureties for the prosecution thereof to Effect and good behaviour in the meane time.

[Those who have followed through these pages the litigious activities of Hudson Leverett, will read with approval the following document (S. F. 1679.3):

To the Right Hono^rable John Leverett Governo^r and the Rest of the Hono^r^d Magistrates now Sitting in Council in Boston

The humble Petition of Hudson Leverett Humbly Sheweth:

That whereas yo^r petition^r was between the houres of three or four a clock upon the fifth day of this instant December 1677: in the dwelling house that formerly was m^r Bezaliel Paytons deced. But now yo^r Petition^{rs} by Administra-

cion and yo^r Petition^r having laid up in one of the Chambers of the s^d house severall feather beds a considerable quantity of Linnen, pewter, Brass, chests of Drawers and severall other movables which amounts by Inventory to thirty Seven pounds. 14^s which were apprizd by Deacon Bracket and m^r Morse, and in that interim of time when yo^r petition^r was cleering the Snow out of the s^d Room where the s^d goods Lay; m^r Leonard Dowden came into the s^d Room where your Petition^r was and asked him what hee did there, and what hee had to do there: And I Replyd thus, I am cleering the Room of the Snow that the goods may not bee damnified, Whereupon the s^d Dowden Replyd, yo^w have nothing to do here also told yo^r Petition^r hee came hither to steale for ought hee knew, now the woman was gone to meeting; also the s^d Dowden gave yo^r Petition^r very Scurrilous Language calling him base fellow and pittifull Rogue, telling yo^r Petition^r if hee would not go out of the Chamber hee would breake his neck down y^e staires: Whereupon yo^r Petition^r went out of that Chamber into the porch Chamber and the foresaid Dowden followed me into the Chamber as close as hee could and struck me upon the back with a walnut tree Cudgell: Vpon that yo^r Petition^r opened the Casement next to the Street and cryed out murther then the s^d Dowden called yo^r Petition^r pitifull Rogue and Cowardly Rascall giving me severall provoking words threatning to breake my neck: Vpon which I Looked out of the casement again and seeing m^r Naylor pass by J desired him to come up to me, telling Him I did not know but I might bee murdered and hee came up the staires to m^r Dowden and my Selfe, and whils't hee was with us the foresaid Dowden Swore by his maker hee would breake my neck down the staires if J would not go out of the house, and instantly after came m^r Dowden up the Staires to me and asked me what I did there, also telling me I had nothing to do there with that house for it was her fathers and I told her Shee was mistaken and Shee replyd saying to me again by what power are you here and I said I am in possession of my own by power of Administracion granted to me by the Court Whereupon m^r Dowden said hee did not care a fart for the Court for the Court had no such power and forthwith commanded his wife to fetch a Lock which Shee did and M^r Dowden nayled the Lock upon yo^r Petition^rs dore and Locked the dore and put the key into his pocket, and then came into the porch Chamber to yo^r petition^r and by Violence halled yo^r Petition^rs cloake off his back and threw it down the staires & then Swore by his maker thus, i'le breake yo^r neck down the staires if yo^w will not goe out of the house you pitifull cowardly Rogue upon which yo^r Petition^r went down into the yard before the house, and as hee was walking too & fro there m^r Dowden gave very threatning words to yo^r Petition^r chargeing him not to come neere that house upon his peril. So hoping that yo^r Hono^{rs} upon yo^r prudent consideration of the premises will see cause to give yo^r Petition^r power to remove the goods out of the s^d house where they may bee secured for yo^r Petition^r which shall Engage me for yo^r happiness ever to pray and I am yo^r Hono^{rs} most humble obedient and faithfull Servant

Hudson Leverett

Boston the 6th 10^{br} 1677

Boston 6: Decemb^r 1677 @

In Answer to this Petition the s^d M^r Dowden was sent for the complaint therein read, two Evidences taken, on hearing whereof It was ordered that m^r Leonard Dowden bee bound in ten pounds to appeare at the next County Court

and Answer what shalbee laid ag^t him by m^r Hudson Leverett for his beating him for his Swearing by his maker &c and Reproachfull Language ag^t the Court and the s^d Leonard Dowden acknowledged himself bound in Ten pounds to the Treasuro^r of the County on this condition that hee shall appeare at the said next County Court and answer accordingly

Also it was ordered that in case m^{rs} Winslow or any other concerned shall refuse to let m^r Hudson Leverett remove the goods which is in a Chamber of the house that the late m^{rs} Paddy posses't to Deacon Brackets to bee Secured, hee having given Security for the same to the Court, then the s^d m^r Hudson Leverett is hereby impowed to remove the said goods out of the s^d Chamber where hee please this done by order. 6. Decemb^r 1677 @

per Edw^d Rawson Secret.

Present

Gov^r [*Leverett*] m^r Bradstreet & Majo^r Clarke

Cf. also *Leverett v. Dowden*, above, p. 882.

Edward Naylor deposed that he "heard very high words" between Leverett and Dowden and heard the latter swear by his Maker (S. F. 1679.7). John Meader deposed that "the s^d Dowden strook the s^d Leverett" (S. F. 1679.6).

S. F. 1679.5

Leonard Dowden his Reasons of Appeale from, the Sentence of y^e County Court Sitting in Boston Ie^v 29th: 1677

Because hee is Neither Realy nor Legally guilty of the Crimes hee was Sentanced for & accused of; w^{ch} will Apeare Plainly from these Considrations; first for y^e rallitie of y^e Guilt it is anough to Denie, whare thare is nott legall prooffe, And I doe Solemly Deny thatt I Remembar I Euar Struck M^r Leueritt, or Swore per my Maker; or Euar gaue Reuiling langage A Gainst Authority; w^{ch} are the Crimes I am accused of & Sentanced for; and thatt J am nott legally Gilty, I humbly begg this hono^red Cort & Gentlemen of y^e Iury to Consider the Euidence broft a Gainst me to proue these Crimes; first as to my Swearing there is noe wittness butt Edw^d Naylor; & as to my Striking of M^r Leueritt thare is no othar butt John Medo^r; for these Crimes but Single testimonies; & for my Reuiling y^e Corte no witness att all; Now Single testimonies are noe Testimonies both by the law of God and the law of this Iurisdiction & the law of Res[on.] First for y^e law of God it Saieth: 19 Deut^y 15 one wittnesse shall nott Rise vp A Gainst any man for any Inequity or for any Sinn in any Sinn thatt hee Sineth; att the Mouth of too Witnesses, or at the Mouth of three Witnesses shall the Matter be Established; and in the 18 Mathew and y^e: [6:] that in the mouth of 2 or 3 witnesses Euery word may be Established; If Euery word Surly then much more Euery Such Crime must be Soe Established; for the Grater y^e Crime a Person is Accused; y^e more Substantiall must be the Euidencees to proue Jt; By y^e law of God I haue proued the wittness of one is nott true; by 2 Scripture Witnesses; the law of this Jurisdiction; the law title witness page 158, Saieth no man shall be putt to death withoutt y^e Testimony of 2 or 3 Witnesses or thatt w^{ch} Js Equieulent thare vnto; now whatt is the thing Equeulent to 2 or 3 Wittnesses; I humbly Conceiue it must be Confession or vndeniable Circumstances, now heare Is Neither, heare Is no

Confession butt A denial of y^e fact; — And for Circumstance[s] wh[ic]h are thay; how doeth it apeare y^t I Stroke M^r leueritt more yⁿ by thatt one witness whare was y^e Sign of y^e bloues; It was a Good Saying of a wise Iudg when a Saruant Complained of his master for want of meate, thatt he was almost famished and to proue the thing Sent a small quantitie of food w^{ch} he Indeuered to proue was his vsuall Allowance, Said y^e Iudge vpon thaire ofring to Shew y^e meat, Shew me nott y^e meat, butt Shew me y^e man Againe for my Swaring thare Js no Circumstance nothing butt a single wittnesse; butt If it be Said y^e law wittne[ss] Relates to Capitall Crimes; & Js Silent as to lesser Crim[es] I answer then by vertue of y^e First law in o^r law Booke[s] the law of God Is the law of this Jurisdiction, and the before quoted placees As before

And for y^e law of Reson J would Say Jf one wittnesse bee legally trew Against A positue Denial; whouse life Reputation, Estate and all the Jnioyments hee hath Jn this world Js worth any thing; Jf It enough to Accuse who shall be Jnnocent

I humbly Craue pardon of y^e honorable County Cort from whose Sentence I Apell, Jf In any thing when J was Jn my triall or here in thes Resons J haue Ofended them; I neuer Intended to Cast Refections vpon them Much les Did I Euar Giue them Reproachfull language; as J am accused of; Butt y^e Sence of my Reputasion lying So att Stacke, That J might vindicat y^e Same and nott Stand vpon Record for A murdouse minded man A Swaro^r a Reuilor of Authority w^{ch} Crimes J hate; J haue assigned y^e Errorees of y^e Sentence w^{ch} Else I had noe Reson to Apeale; Butt Jf any Resons be found Good I hope wth out Ofence to y^e formar Corte; my Sentence may bee Reuersed: and my Good Name Cleared,

Leo: Dowden

These Reasons Rec^d Feb^r 28^o 1677

per Js^a Addington Cler

Leverett's Answer (S. F. 1679.4) follows:

Answers to Leonard Dowden his reasons of Apeale (As hee Calls them) from the Sentance of y^e Countje Court Sitting In Boston Ianuary y^e 29th 1677 @

The Crime hee was guilty of was Both Realy & Legaly proued against him, elce hee Charges the Court hee apealed from for proceeding against him Illegaly and Iniustly as Jf hee Should haue Said they past a Iudgement without Evidence, w^{ch} is A Greate Reflection vpon the Honord Countje Court

And for his Reasons themselues (As hee Calls them) they Are soone Answered y^t w^{ch} hee was Charged with found by the Court apealed from Guilty of & by the Said Court Iustly Sentenced, for Itt was of a Criminal Nature & the Court Vnderstood what they did proceed Vpon & therefore gaue that Sentence & Iudged the Euidences then produced, good; notwithstandinge y^e Defendants Plea In his Reasons as hee Calls them that there Was noe Evidence against him, but Hudson Leueretts Concerneinge his strikeinge of him or Sweareinge which hee Saith his Denyal thereof ouerballances, but Cannot, because Itt is a Crime & Leuerett A Wittness for the Kinge & Country & his Evidence In part backt With other Testimonjes Viz^t Naylor & Meador; & one Single Testimony In a Criminal Cause Is Sufficent Evidence his Quotinge of the Lawe Title Wittness Page 158 Is against him w^{ch} Saith In Life & Death one Wittness & Circumstances Equiuolent Is good Evidence If in a Cause of soe high a Nature then Certainly In this Case & the Sentance of the Court Iust, If Circumstances as the Apealant would

haue Itt bee thereby meant, Confession Very fewe persons would bee found Guilty of any Crime

The Rest of what hee giues In is soe Triuial as Respectinge Leuerett that Its not Worthy Answeringe, But as to the Honord Court Apealed from full of Reflections Which this Honord Court will finde to bee Soe vpon theire Serious Consideration thereof

Whether it was the strength of Dowden's appeal to technicalities and the law of God, or tacit approval of the beating he administered to the attorney, we cannot tell; but the Court of Assistants, presided over by Leverett's father, the Governor, reversed the former judgment and required Hudson to pay 35s costs.]

MARNEL Sent^a

Thomas Marnell Servant to John Tay convict by his own confession in Court of twice running away from his Master: Sentenced to stand committed to the house of Correction there to bee entertained & kep't according to Law, untill this Court, the Governo^r or some other member thereof take further order, and to Satisfy his Master his charges and expences in pursuing of him by one yeares Service more then his Jndentures and to pay fees of Court.

WATTS Sent^a

Rhoda Porter complaining ag^t Thomas Watts for stealing severall goods from her and out of her house which by virtue of a warrant were found in said Watts his Chest and Seized by the Officer Valued at three pound thirteen Shillings, the s^d Watts being removed out of the Colony: The Court order that the goods found bee restored unto the s^d Rhoda Porter and that the s^d Watts pay her Seven pounds Six Shillings in mony being 3^{ble} damages according to Law and fees of Court.

Execucion issu^d Feb^{ro} 12^o 1677/8.

The Court Adjourned unto Thursday the: 14^o of feb^{ro} instant at Eight in the morning.

CANNON to ADDAMS

Robert Cannon junio^r personally appearing before John Leverett Esq^r Gov^r & Edw^d Tyng Esq^r Assist. feb^{ro} 4^o 1677. and confessed judgement against his Estate and person unto Abraham Addams for

Eleven pounds two Shillings six pence mony according to bill on file; with charges.

as attests. Js^a Addington Cler.

Execution issued 15. X^{br} 1684. [496]

February: 14^o 1677/8 @
The Court met by Adjournm^t

CALLACOTT etc. Admonish't

m^r Richard Collacot and m^r James Everell presented by the Grandjury for not taking an Oath according to truth, righteousness and judgement in the case referring to Hugh Drewry: The Court having considered the presentm^t the Evidence and what was produced and alleaged in the case, do finde them guilty of Swearing an ambiguous uncertain & unsafe oath, and Sentenced them to bee seriously Admonish't & to pay fees of Court.

REYNOLDS Sent^a

Henry Reynolds convict by his own confession in Court of stealing severall quintals of Fish in consortship with James Wiseman jun^r out of the ware house of John Sweete of which they made five pounds in mony; Eight quintalls whereof is challenged by Rich^d Sute and Goodman Sweete having lost upwards of two quintals; Sentenced to bee whip't with fifteen Stripes, and to pay unto Richard Sute six pounds mony, and unto John Sweete thirty shillings in mony being 3^{ble} damages according to Law and fees of Court standing committ^d &c. Afterwards upon his petition the Court remitt^d his corporall punishm^t hee paying Forty Shillings in mony fine to the County.

WISEMAN Sent^a

James Wiseman Iun^r convict as above by his own confession in Court; as also of stealing Fifty Seven Shillings from Laurence Waters, Sentenced to bee whip't with fifteen Stripes and to pay unto Richard Sute Six pounds in mony, unto John Sweete thirty Shillings in mony unto Lau: Waters Eight pounds Eleven Shillings in mony being 3^{ble} damages according to Law, and fees of Court standing com-

mitt^d &^a Afterwards upon the petition of his Freinds The Court remitt^d his corporall punishment, hee paying Forty Shillings mony fine to the County.

MORSE Sent^a

Francis Morse prosecuted by Benjⁿ Davis upon suspition of his Stealing out of his Shop a Box with about nine pounds of mony in it, s^d Morse owned that hee was unseasonably abroad that night in the Ordinaries but denyed taking of the mony Sentenced for his night [497] walking and disorders to give in bond with Sureties of twenty pounds for his good behavio^r untill the next Court of this County and appearance then & to pay fees &c. accordingly himselfe in £:10: & Pen Townsend and W^m Gilbert in £.5: apeice were respectiuely bound to the Treasuro^r of y^e County.

The Court Adjourned to Munday at one aclock the. 18^o Feb^{ry} 1677/8

The Court met by Adjournm^t

Sam^{ll} Hix and Henry Withrington of Dorchester tooke the oath of Freedom of this Colony.

Order relating to Dorchest^r meeting house

In Answer to the petition of severall of the Jnhabitants of Dorchester relating to a difference between the Jnhabitants about the place for the Erecting theire meeting house upon: The Court appoints & impowres Cap^t Daniel Fisher of Dedham, Deacon Jacob Eliott of Boston, m^r Thomas Weld of Roxbury and L^t Edm^d Quinsey of Brantery to bee a Committee to repaire unto Dorchester (Cap^t Fisher to appoint the time) to Veiw the place s^d to bee agreed on for that end and to heare what may bee said against it; Also to Veiw any other place which may bee propounded by any of the Jnhabitants as commodious for that use, and to Labour what may bee to bring them to a mutuall Agreem^t about the place making report of what they do herein to the County Court in April next.

BUTCHER &^a Sent^a

Robert Butcher & Joseph Baker complained of for being abroad at unseasonable houres in the night and drinking at Goodman

Pollards after nine aclock, Sentenced, to pay five Shillings apeice in mony fine to the County and fees of Court standing committ^d &c.

WING & BILL Fin^d 40^s ap^s

John Wing and Tho: Bill being accused for giving entertainm^t to other mens Servants and suffering them to spend mony and drinke in theire houses: Vpon consideration of the Evidences produced ag^t them: The Court Sentenced them to pay Forty Shillings apeice in mony fine to the County according to Law & fees of Court standing committ^d &c. [498]

Order ab^t GROSS's Estate

Jn Answer to a petition of Clement Gross present^d to the Generall Court relating to the release of his Estate and by them referred to this Court: Jt is ordered that the s^d Gross Sell part of his Estate in houseing Lands & movables to the Value of three hundred pounds for the paym^t of his debts, and that the rest of his Estate bee Secured to the Treasuro^r of the County for the use of him & his Children by Ann his late wife, and that hee give an Acco^t to the next Court of this County of what is done herein.

NEGUS his paym^t remitt^d to 4^s per annum.

Jn Answer to the petition of Benjⁿ Negus Sen^r his yearely paym^t for not Trayning is remitt^d to four Shillings per annum.

At a County Court held at Boston April: 30th 1678 @

Present

JN^o LEVERETT Esq^r Gov^r
SIMON BRADSTRETT Esq^r

EDW: TYNG
THO: CLARKE
JO: DUDLEY

} Esq^{rs}

Grandjury the same wth the former Court

Jury of Tryals Sworn

m^r Benjⁿ Davis
Sampson Stoddard
Tho: Clarke
Joseph Wise

Jn^o Holbrooke
Jn^o Burge
Fra: Newcomb
Jacob Nash

Jn^o Fairebanke
James Thorpe
Tho: Boiden
Benjⁿ Jones

[ALCOCK v. MEAD]

Sarah Alcocke the Relict widdow of m^r Sam^{ll} Alcocke Physitian dece^d plaint. ag^t Richard Mead Sen^r of Roxbury Def^t in an action of the case for withholding from the s^d Sarah possession of the house where the said Mead now dwells and the Lands thereto appertaining &c. together with all other Lands belonging or appertaining to the s^d Alcock lying & scituate in Roxbury and now in the possession of the s^d Mead & all due damages &c. according to Attachm^t. . . . The Jury . . . found for the Defend^t costs of Court: The plaint. appeal^d from this Judgem^t unto the next Court of Assistants & put in Security for the prosecution thereof to Effect.

[Copy of Alcock's Will and Sarah's Reasons of Appeal in S. F. 1721.1, 2. She withdrew her action before it came to trial at the Court of Assistants.]

[SHEFFEILD v. NITINGALE]

Edmund Sheffeild Junio^r plaint. ag^t William Nitingale Def^{dt} in an action of the case for the non payment of Fourty pound Sterling being the forfeiture of a bond by Exchange of mony for not performing the Award of Fourteen pounds according to the determinacion of Caleb Hobart, Josiah Chapin Samuel Nile and William Veazy being Arbitrato^{rs} indifferently chosen by s^d Sheffeild & Nitingale as by theire Award bearing date the. Sixth of August. 1677. doth more fully appeare wth all [499] due damages &c. . . . The Jury . . .

found for the plaint. the Forfiture of the bond being Forty pounds mony and costs of Court twenty Shillings and four pence.

Execution issued 21^o Decemb^r 1680.

OUGHTRED ag^t CURWIN &c.

Charles Oughtred (or George Purkis his Lawfull Substitute Attourney of Samuel Sheafe of London ag^t Jonathan Curwin & Elisabeth his wife (Adm^x of the Estate of m^r Robert Gibbs dece^d) and James Whetcomb or either of them Def^{ts} The plaint. withdrew his Action.

Charles Oughtred (or George Purkis Lawfull Substitute) Attourney &c. plaint. ag^t Jonathan Curwin &c. Def^{ts} The plaint. withdrew his Action.

COOKE ag^t HULL

Elisha Cooke Attourney of Cap^{tn} John Wincoll plaint. ag^t Captⁿ John Hull Defend^t in an action of the case for withholding the Summe of two thousand pounds in currant mony of New-England due to s^d Wincoll by Obligacion under his hand & Seale bearing date the. 6th day of April. 1671. with all other due damages &c. . . . The Jury . . . found for the plaint. two thousand pounds mony being the penalty of the bond & costs of Court The Defend^t appealed from this Judgem^t unto the next Court of Assistants & gave Security for the prosecution thereof to Effect.

[In this case John Hull the mintmaster was forced to break the record of which he had boasted four years earlier, that he had never sued any man nor been sued at law — S. E. Morison, Builders of the Bay Colony, p. 170; cf. id., p. 178, where a letter from Hull to George Broughton is quoted.

S. F. 1775.2

Whereas Cap^t John Wincoll hath resigned and made over unto m^r John Hull and m^r Roger Plasteed all his right title and interest in the Salmon Fall[s] Mills as per agreement or writing under his hand and Seale dated with these pu^rsents appears, w^{ch} is with the advice and consent of me Thomas Broughton Now know all men by these pu^rsents that J the said Thomas Broughton binde my Selfe heires Exec^{rs} & adm^{rs} in the penall Summe of two thousand pounds currant mony of New-England unto the s^d Capt. John Wincoll his heires Exec^{rs} adm^{rs} and assignes to save and keepe harmless the s^d Jn^o Wincoll his heires Exec^{rs} adm^{rs} and assignes of and from all and all manner of debts dues claims & demands whatsoever any person or persons shall challenge or demand of him the s^d Wincoll his heires or assignes by bonds bills covenant contract promi[se] Booke debts or any other waies by which they may claim the same from the said Wincoll as concerning his

acting and manageing the s^d Mills or any other waies wherein hee hath obliged himselfe for me the s^d Broughton. Jn Witness whereof J put to my hand & Seale the 6th day of Aprill. 1671 @,

Thomas Broughton (Sigil)

Signed Sealed & Deliurd in pu^rsence of Jabez Fox Tho: Lake George Broughton

Owned in Court [30]th April, 1678 by m^r Broughton

as attests Js^a Addington Cler

S. F. 1775.3

Whereas m^r Thomas Broughton hath this sixth day of April: 1671. given an obligation under his hand & Seale unto Cap^t Jn^o Wincoll to save & keepe harmless the s^d Jn^o Wincoll his heires Exec^{rs} adm^{rs} and assignes of and from all manner of debts dues claims and demands whatsoever any person or persons shall challenge or demand of him the s^d Wincoll his heires or Assignes by bonds bills covenants contracts or any otherwaies whereby they may claim the same of and from the said Wincoll as concerning his acting and manageing the Salmon fall Mills or any otherwaies wherein hee hath obliged himselfe for the s^d Broughton as per the s^d writing appeares: Now know all men by these pu^rsents that J John Hull of Boston in New-England binde my Selfe my heires Exec^{rs} & Adm^{rs} unto the s^d John Wincoll his heires Exec^{rs} & Adm^{rs} in the penall Summe of two thousand pounds currant mony of New-England That the said Broughton shall do and perform the same in every respect concerning all dues claimes dema[nds] that hath been obliged since the 6th day of December. 1662. Jn Witness whereof J put to my hand and Seale the words (being obliged) was interlined before Sealing.

John Hull (Sigil.)

[Same witnesses as to previous document]

Hull appealed to the Court of Assistants (Records, i. 122) which sustained him, and required Cooke to pay 59s costs.]

DOWDEN ag^t HAYMAN

Leonard Dowden plaint. ag^t John Hayman Def^t The plaint. withdrew his Action.

WHETCOMB ag^t COSENS

James Whetcomb plaint. ag^t Jsaac Cosens Def^t The plaint. withdrew his action upon the Def^{ts} confessing Judgem^t

GREEN ag^t RAYNSFORDS

William Green plaint. ag^t John Raynsford David Raynsford & Solomon Raynsford Def^{ts} in an action of the case for unjustly molesting of the s^d Green by disturbing or hindering of him in the building or Erecting of a wharfe before his own ground at the Southerly end of Boston which is greatly to his damage with all other due damages &c. . . . The Jury . . . found for the Defend^{ts} costs of Courts.
[500]

WALDRON agt HENDERSON

Jsaac Waldron plaint. ag^t William Henderson of Dover Def^t in an action of the case for that the said Henderson hath not recalled graved fitted & compleated a Ship about One hundred twenty and Seven tons to the Sea with all Carpenters worke whatsoever wth all possible Speed according to his obligation bearing date the. 7th of January Ann^o Dmn 1677. whereby the s^d Waldron or his Emploiers are damnified One hundred and Fifty pounds or thereabouts in Silver, w^{ch} shall appeare with all other due damages &c. . . . The Jury . . . found for the Defend^t costs of Court grant^d thirty Shillings & eight pence: The plaint. Appeal^d from this Judgem^t unto the next Court of Assistants and gave Security for the prosecution thereof to Effect.

[By bill of sale dated 7 January 1677/78 (S. F. 1734.5), William Henderson sold to Isaac Waldron for account of Samuel Wiggins of London, merchant, three quarter parts of the ship Primrose, 127 tons burthen, for the sum of 307l 10s. On the same date he signed the following obligation:

S. F. 1734.7

Whereas J William Henderson of Dover in New-England Ship-wright have built for Jsaac Waldron of Boston in New-England aboves^d Physitian & his order the hull or body of a Ship or Vessell of burden about One hundred and twenty Seven tons now lying in the River of Piscataqua, and am obliged to recalke grave and everyway to fit and compleate the s^d Ship to the Sea with all Ship Carpenters worke whatsoever: J the s^d Henderson do hereby oblige my Selfe heires Exec^{rs} and Adm^{rs} that J will with all possible Speed do and finish the s^d workes or cause them to be done and finished to the compleate fitting the s^d Ship to the Sea as afores^d and in case the s^d Ship shalbee hindred or any waies staid through my default for want of any of the s^d workes being done unto her, J do hereby promiss and engage to pay and Satisfy the s^d Jsaac Waldron his Correspondants Emploiers or Assignes all such just damages as hee or they shall Sustain by reason of the Ships lying for want of the s^d worke. In Witness whereof J have hereunto put my hand & Seale this Seventh day of January Ann^o Dm 1677 @

W^m Henderson a Seale

Signed Sealed & Deliur^d in pu^sence of us.

Nathal: Byfeild

Js^a Addington.

S. F. 1734.6

By this publick Instrument of Protest, Bee it known and manifest unto all People that on the Eigth day of February in the yeare of our Lord One thousand Six hundred Seventy Seven Stilo Angliæ. Before me Robert Howard dwelling in Boston sole Notary and Tabellion publick by Authority of the Generall Court of the said Colony admitted and Sworn Appeared Jsaac Waldron of Boston afores^d Physitian and desired me the s^d Notary to protest against William Hinder-

son of Dover in New-England Shipwright, For that whereas hee the s^d William Hinderson by Obligation under his hand & Seale bearing date the Seventh day of January One thousand Six hundred Seventy Seven did contract and oblige himselfe his heires Exec^{rs} and Adm^{rs} unto the s^d Jsaac Waldron forthwith or with all possible Speed to recalke grave & every way to fit and compleate, a Ship or Vessell to Sea burthen about One hundred twenty and Seven tons now lying in the River of Piscataqua with all Ship Carpenters whatsoever to bee done unto s^d Ship to and for the use of s^d Jsaac Waldron his Correspondents Jmployers or Assignes according to the tenour of s^d bond shewed to me the s^d Notary: Now hee the s^d Jsaac Waldron desired me the s^d Notary to protest against the s^d William Hinderson, For that hee the s^d William Hinderson hath not recalcked nor graved nor fitted the s^d Ship with a Capstan & Windlice & Boate and many other things in fitting the s^d Ship to Sea with such Expedition and possible Speed, according as is expressed & manifested in s^d recited Obligation as by the same Obligation reference thereunto being had will more fully appeare: ~~Wherefore~~ J the s^d Notary according to the instance and request afores^d in behalfe of the s^d Jsaac Waldron the Appearer and parties therein concerned as afores^d J do hereby solemnly protest against him the s^d William Hinderson Shipwright for all breach of the s^d Covenant, Contracts & Agreements by him to bee performed & kept contained in s^d recited Obligation according to the true intent and meaning thereof, and thereby for all Losses charges hazards detriments disappointments & damages whatsoever at present Suffered or that hereafter the s^d Waldron &c. shall or may Suffer or Sustain to bee all recovered against him the s^d William Hinderson Shipwright his goods & Estate in time and place convenient: This was thus done & protested according to the Custom of the s^d Mattachusetts Jur[is]diction in the publick Office of me the s^d Notary [in] Boston afores^d the s^d Eighth day of February 167[7] in pu'sence of John Morse and Paul Batt Jnhabitants in s^d Boston being Witnesses hereunto called [and] requested.

Quod virtute Officij mei attestor

Robert Howard Not: publ. prædict.

This protest is Recorded in the 163. & .164. page of the s^d Notary Records per pu^dt Ro: Howard: N: P:

J the abovementioned Notary (besides what is already done in point of protest as is aboves^d) do hereby order appoint and depute William Waldron to publish the same to himselfe, if not out of the way or at his house or at the s^d Ship or Vessell.

This protest was published and read onboard the Ship within mentioned and also to m^r Henderson himselfe, sometime in February last past, J also left a Note at his house J had from m^r Howard which was to give him notice of this protest also.

per me Will. Waldron

. . . true Coppie . . . Js^a Addington Cler

S. F. 1734.9

The Deposition of Derrick Addams aged about 36 yeares Testifyeth & Saith,

That he being Boatswaine of the new ship built at Dover, by William Henderson, in the yeare 1677 This deponent did worke Sundry days on board the s^d Ship, being Shipped by m^r Jsaac Waldron and that the Said Ship now Called the

Primrose, was not afoate but remained on the Sands neere the Towne of Dover, untill Richard Rich & by his meanes, and by our Endeauors, the S^d Ship was Sometime in the monthe of February last past Carryed out into the river, and that vntill that time, the Ship was not afoate or Swimming, and further this deponent Saith not

Joseph Hasy, carpenter, added his testimony in part as follows (S. F. 1734.12):

. . . that if m^r Hinderson had been willing hee might have been daily forwarding the worke ever since the .7th of January aboves^d to this day, being yet much Carpenters worke to bee done before Shee is fit for Sea Viz^t calking up the port-holes, recalcking the deck placeing the Capstan as it should bee, a Ladder to Set to the Scuttle to go down between decks and placeing timbers to stow the Boate upon deck and much other worke that the s^d Hinderson or Builder ought to have done; which J am yet daily employed to do being employed by m^r Waldron: And J further testify that on the Seventh day of January last past the Ship abovesaid wanted a Boate, recalcking graving capstain windlice top mast top mast yards, tiller transome and much other Carpenters worke that the Builder ought to have done, and that J Joseph Hasey by m^r Waldrons order have worked on the s^d Ship in making or mending and Setting the Boate sprite, Cheekes for the Chimneys fitting and setting the Mison mast, plaineing and Cleeting the maine yard maine top saile yard, maine topmasts, the drawing and plaining and cleeting the fore yard the fore top saile yard and fore topmast, graveing two sides drawing and plaining the mizon yard mizon topsaile yard cross jack yard, mizon top mast calking between the wales fitting the sprittles yards and top mast, forelocking of bolts, the making the bulkehead in the Lazareta, the pump case the Loading port, the Setting of the pump and much other worke that the s^d Henderson ought to have done about which worke J spent thirty five dayes after the rate of three Shillings and Six pence per day in Silver as m^r Waldron payes to other Carpenters it comes to Six pounds two Shillings and Sixpence part of which J have receiv^d of s^d Waldron already, and doubt not but shall have the remainder to my Satisfaction after J have finished the Carpenters worke which J am daily about, and which worke m^r Hinderson or builder ought to do or cause to bee done; but the said Henderson absented himselfe and would not, and J do really beleive that if m^r Waldron had not employed hands to do the Carpenters worke to s^d Ship, Shee might have spent the Own^{rs} by wages and provisions for Seamen and other Charges more then Shee is worth before m^r Henderson would have fitted her with all Carpent^{rs} worke fitting for the Seas

Gr^t Jsland the .22^d April. 1678. Joseph Hasey came and made oath to the truth of the within written Before me

Elias Stileman Commiss^r

Considerable additional testimony as to Henderson's neglect is in S. F. 1734.5. The Court of Assistants (Records, i. 119–20) confirmed the former judgment with 53s 8d costs. But Waldron had to sue Henderson twice again, in the July sessions of 1678 and 1679; see below, pp. 924 and 1038.]

COBHAM ag^t JOANES

Josiah Cobham Senio^r or his Attourney pl^t ag^t Robert Joanes Def^{dt} in an action of the case for not paying the full and just quantity of Nine thousand & two hundred foote of Merchantable pine boards due according to bill under the hand of the s^d Joans bearing date the. 6th of Decemb^r 1677. which is to the plaint^s great damage wth all other due damages &c. . . . The Jury . . . found for the plaint. nine thousand two hundred foote of Merchanta^{ble} pine boards according to bill & costs of Court granted twenty one Shilling and eleven pence.

Execucion issu^d May. 3^d 1678.

HARBOUR ag^t WEBB etc.

John Harbour plaint. ag^t Christopher Webb and Joseph Allen Def^{ts} in an action of the case for mowing and carrying away grass off of his meadow which was formerly the meadow of his Father contrary to any good order to the great damage & loss of the s^d Harbour: The Jury . . . found for the Defend^{ts} costs of Court allow^d Fifteen Shillings 2^d

SCARLETT ag^t GILMAN

John Scarlett of Boston plaint. ag^t Moses Gilman of Exiter Defd^t in an action of debt of Eleven pounds nineteen Shillings & Six pence in good Merchantable [501] pine boards at mony's price to bee p^d at Boston as will appeare by bill under his hand bearing date Decemb^r 23: 1676. wth all other due damages &c. . . . The Jury . . . found for the plaint. Eleven pounds Nineteen Shillings six pence to bee p^d according to bill & costs of Court grant^d thirty three Shillings & four pence.

Execucion issu^d 4^o May. 1678.

TOMPSON agt. CURTIS

Benjamin Tompson of Brantry Assigne by Deed and Proprieto^r by purchase of the Estate of John Godfry plaint. ag^t Zacheus Curtis Senio^r Defend^t for withholding a debt of Eleven pounds due by bond or bill to the s^d Godfrey & his Assignes as therein is Specified to-

gether with all due damages for non payment. . . . The Jury . . . found for the plaint. Eleven pounds to bee p^d according to bill & costs of Court. granted 39^s

Execution issued June: 22^o 1678.

WISWALL agt COOKE

John Wiswall Junio^r plaint. ag^t Elisabeth Cooke the Relict; widdow and Executrix of the last will & testam^t of Richard Cooke late of Boston dece^d & Elisha Cooke Executo^r or either of them Defend^{ts} in an action of the case for a division of certain lands and houseing lying in the Limits of Boston at Rumney Marsh being commonly called Lanes Farme, the one moiety or halfe part thereof was Legally conveyed to the s^d Wiswall, by his Father John Wiswall Sen^r which the s^d Cookes refuse to divide, whereby the s^d Wiswall is greatly damnified with all other due damages &c. . . . The Jury . . . found for the Defend^{ts} costs of Court.

JOHNSON agt WILDER

Humphry Johnson as heire or assigne of Humphry Turnor and Joseph Turnor late of Scituate in New-England, plaint ag^t Jsaac Wilder Defend^t according to attachm^t The plaint. withdrew his Action & the Court granted the Defend^t costs

SCOTTOW ag^t TINNEY etc.

Captⁿ Joshua Scottow plaint. ag^t John Tinney & Richard Moore of Scarborough or either of them Defend^{ts} in an action of the case for carrying away the plaint^s Shallop from the s^d Scarborough wth her appurtenances in the yeare. 1676. whenas the s^d Scottows house, and the Country's garrison was deserted or deliurd up unto the Enemy; which hath been to the s^d plaint^s very great damage: . . . The Jury . . . found for the plaint. thirty pounds mony damage & costs of Court grant^d thirty two Shillings

Execucion issued May: 6^o 1678. [502]

SCILLEY ag^t THAYER

Thomas Scilley plaint. ag^t Richard Thayer Defend^t in an action of the case for breach of bond by the non paym^t of ten pounds mony

due to the s^d Scilley by an Award and also weekly wages due as by the bond bearing date. 22^o January. 1677. and an award under the hands of Samuel White & Christopher Webb bearing date. pr^o March 1677/8. will more fully appeare wth all other due damages &c. . . The Jury . . . found for the plaint. the Forfiture of the bond being Fifty pounds mony and costs of Court: Vpon hearing of both partys the Court chancered this Forfiture to twenty five pounds of s^d Summe & costs of Court granted thirty four Shillings 4^d

Execution issued 20th May. 1678.

BARTHOLMEW ag^t HATHORN

William Bartholmew plaint. ag^t Sara Hathorn Exec^x & Ebenezar Hathorn Executo^r to the last will of Jn^o Hathorn dece^d Def^t The plaint. withdrew his Action.

KEEN ag^t OXE

John Keen plaint. on appeale from the Judgem^t of the Worpp¹¹ Edw^d Tyng Esq^r ag^t Robert Oxe Defend^t. . . The Jury . . . found for the plaint. Reversion of the former Judgem^t and costs of Courts. Tho: Lacey as Attourney of the Defend^t appealed from the Judgem^t of this Court unto the next Court of Assistants & gave Security for the prosecution thereof to Effect.

[This was an appeal from a Commissioner's Court, in an action of debt of 2*l* for a disappointing barrel of anchovies. (Bill in S. F. 1707.3.)

S. F. 1707.2

John Keene his Reasons of Appeale from the Judgem^{ts} of the Worpp¹¹ Edward Tyng Esq^r dated the. 23th of Decemb^r 1677. @

Jmp^{rs} The now plaintife ownes that hee treated with m^r Oxe but did not make a positive bargain about a small caske of Anchovis; which s^d Keene would have paid for if good and Merchantable; but s^d Oxe sent a caske to his house that was not good or Merchantable Therefore the now plaintife appeales to his Honorable Court for Judgement in the case, humbly conceiving that the Anchovis were not good and Merchantable or worth the money charged for, nor is the process legall being in m^r Oxe his Name when hee Swears it was in behalfe of his principall in England contrary to the Law page the Eight Sect. the 3^d all which J leave to this Court and Jury, and remain yo^r Hono^{rs} Servant to command.

John Keene

These Reasons of Appeale were Rec^d april: 25th 1678.

Edward Tyng

S. F. 1707.4

Robert Oxe his answer to John Keenes Reasons of appeale from the Judgem^t of the Worpp^l Edward Tyng Esq^r dated the. 23^d Decemb^r 1677. @

J Answer that the bargain was firme & good between man and man, in that the now plaintife ordered the Sending of the s^d Anchovis to his house which was performed in good order and welconditioned, otherwise why not returned when first received, there being no complaint made untill Severall months after, that they was bad and when they were so without doubt it was thrô his own carelessness in not lookeing after so perishing a Commodity, which will decay (wanting pickle in a few dayes, and whereas hee Sayes that the process is not legall is to bee admired considering that Judgement hath been given twice by the Worpp^l Edward Tyng for the Defend^t it appearing as J suppose by the sd Defend^{ts} Leager that though the Anchovis was commission goods, yet hee had given the acco^t Credit for the very same barrell of Anchovis that the now plaintife had makeing the debt his own in so doing, having ballanced the Account and sent it with the produce of the goods home to his principall in England, not thinkeing it fit that the Acco^t should remain unballanced for Forty Shillings when it was in such Secure hands (as hee thought) as the now plaintifes, but there is few men which may not bee deceived as well as the Defendant, who trusting to finde m^r Keen a just peaceable man, meetes in his roome a man of a turbulent Spirit, which had rather Spend (as J have heard him Say) Forty pounds, then pay this honest just forty Shillings debt; this J leave to the Juditious Judgem^t of this Honord Court and Jury, Remaining

Yo^r Hono^{rs} most humble Serv^t

Thomas Lacey attourney to Robert Oxe

Joseph Webb testified (S. F. 1707.5) that, encountering Keen,

... m^r Oxe entred into discourse about the Anchovis they had a Sute of Law about, m^r Keen said they were rotten and not good, m^r Oxe owned hee did not looke into them, but as was usuall hee run down a stick amongst them, and said hee smelt of the Stick and it was Sweete, adding if it smel't of the Anchovis then they were Sweete, if otherwise they were not good.

Oxe appealed from the County Court. His Reasons (S. F. 1732.4) contain little of interest but the following passages:

... J Aprahend that when Goods are Sould & Deliuerd that it cannot be in the Choice of the buier whether he will haue them or noe Thorow a dislike of y^e Comodaty a Considerable time after Especially when the Goods are Damnified by y^e buiers Carlsness if it be Soe then Adue to all Trade & Commerce in the world, but if the Goods be not Such as they were bought for why not Returne when first Receued that the now plentive might haue made the best aduan[tag]e of them, but he must be the Suffaror for others neglect.

The gist of Keen's reply (S. F. 1732.5) is in these paragraphs:

4^{ly} Jf M^rchants at thire owne will & pleasure Send their Rotten Commodities to any mans house without his order or if they doe soe, them selves aught to paye y^e losse on booth parties, elce J must saye Adue to all such commerce. . . .

6^{ly} M^r Oxe, pretends hee thrust a sticke into y^e Anchovis, y^t by y^e smell of it hee might proue their Goodnes or sweetnes, but the jury by mind[ing] the evidunce in the Case will finde a slate stone betwene y^e drye Rotten Anchovis and y^e [stice] Soe y^t by y^t prooffe hee Could not haue the true Savour of them

James Butler testified as to the stick and stone, and Keen's maid-servant testified that the anchovies "was rustey and rotten that wee could not use them, but was forced to send for other anchov to use at a feast wee had presently" (S. F. 1707.6, 7).

Nevertheless the Court of Assistants, (Records, i. 124) reversed the former judgment and forced Keen to pay for the anchovies and 56s 10d costs.]

WAY ag^t SAVAGE

L^t Richard Way Attourney of John Hornbrooke plaint. ag^t Ephraim Savage who married Sarah Walker the late widdow and Adm^x to the Estate of Obadiah Walker dece^d Defend^t in an action of the case for not paying the Summe of Eighteen pounds in mony due to the s^d Hornbrooke for wages done in the Service of s^d Walker at Kenebeck as shall appeare by Evidence, for want whereof the plaint. is very much damnified wth interest and all other due damages &c. . . . The Jury . . . found for the plaint. Eighteen pounds mony and costs of Court.

L^t Rich^d Way appearing in the Office acknowledged hee was fully Satisfied the abovewritten judgem^t

TOMPSON ag^t WHITAKER

Benjⁿ Tompson assigne by Deed & proprieto^r by purchase of the Estate of John Godfrey plaint. ag^t Abraham Whitaker Sen^r Defend^t according to attachm^t The plaint. was nonsuted upon non appearance and costs granted the Defend^t

CLARKE ag^t NICHOLS

Andrew Clarke plaint. ag^t John Nicholls Defend^t according to attachm^t The plaint. was nonsut^d in failure of process Suing in an action of Reveiw wherein there was formerly two Def^{ts} and now but one reveiwing and costs grant^d the Defend^t [503]

CLARKE agt. KENT

Thomas Clarke Merch^t plaint. ag^t William Kent Def^{dt} in an action of defamation, that when s^d Kent came to fetch two pipes of

wine hee bought of s^d Clarke, hee said hee would not bee cheated by him, and hath often said the wines hee bought of Clarke were abused, all which is untrue: . . . The Jury . . . found for the Defend^t costs of Court.

CLARKE agt. KENT

Thomas Clarke Merch^t plaint. ag^t W^m Kent Defend^t for a debt of thirty Eight pounds mony due for two pipes of wine Sold him in January last: . . . The Jury . . . found for the Defend^t costs of Court.

KELLOND ag^t CHECKLEY

Thomas Kellond Attourney of Thomas Martyn pl^t ag^t Anthony Checkley Defend^t according to attachm^t The plaint. withdrew his Action.

BRADSTREET ag^t STARLING

Simon Bradstreet Esq^r plaint. ag^t William Starling Defend^t accord. to attachm^t The plaint. withdrew his action.

TOMPSON ag^t SIMONS

Benjamin Tompson Assignee by deed & proprietor by purchase of the Estate of John Godfrey plaint. ag^t Samuel Simons of Haverill Defend^t for withholding possession of Lands unto the s^d Godfrey Mortgaged, from the s^d Tompson, or refusing to pay fourscore pounds w^{ch} the s^d Land was mortgaged for, together wth due damages: . . . The Jury . . . found for the plaint. twenty pounds according to bill & costs of Court allow^d thirty Seven Shillings four pence.

Execution issued 21^o Janur^o 78.

[A copy of the indenture is in S. F. 1622.9.]

COZENS to WHETCOMB

Jsaac Cozens personally appearing in Court, confessed judgem^t ag^t his Estate and person unto James Whetcomb for Eleven pounds twelve Shillings six pence to bee paid in mony.

Execution issued May. 10th 1678.

STERLING to TYNG

William Sterling of Havarill personally appearing confessed Judgem^t ag^t his Estate and person unto Edward Tyng Esq^r for Nineteen pounds to bee p^d in mony, being so much remaining due according to bill on file wth damages.

Execucion issued. June. 16th 1678.

MAY his Estate divided

Vpon request of Abigail May widdow, for a division of the Estate left by her late husband Samuel May of Roxbury dece^d: It is ordered that the eldest Son of s^d May shall have twenty marke and the rest of the Children twenty Nobles apeice to bee p^d unto [504] them as theire portions from theire s^d Fathers Estate when they shall attain theire respective ages of one & twenty yeares the portion of him or her dying before that age shalbee equally divided among the Survivo^{rs} the whole remaind^r of the Estate is granted unto Abigail Relict of s^d May and her heires for ever.

PARSONS discharge from Trayning

William Parsons upon his petition by reason of age and infirmities of body attending him was discharged from attending upon ordinary traynings in the Military Company under the command of Capt^a Daniel Henchman or in what other Comp^a hee may remove to, paying four Shillings per annum to the use of the Comp^a and keeping armes according to Law.

Brantery Clerke of the Writts

Vpon the motion of the Jnhabitants of Brantery Christopher Webb is approved of to bee Clerke of the Writts for s^d Town.

BRECK Fin^d £.8.

Thomas Breck of Boggastow convict by his own confession in Court of buying for & delivering unto an Indian two quarts of strong Liquo^{rs} Sentenc^d to pay Eight pounds in mony fine to the County according to Law: upon his petition the Execution of this Sentence is respited.

A Freeman Sworn

m^r Jabez Fox tooke the oath of freedom of this Colony.

Weymouth Clerke of Writts

Stephen French being nominat^d by the Inhabitants of Weymouth is approved of to bee Clerke of the Writts for s^d Town.

Weymouth Commiss^{rs}

Capt^a William Torrey L^t John Holbrooke & Serj^t Samuel White are appoint^d to bee Commission^{rs} to end small causes in the Town of Weymouth for the yeare ensuing.

COLLACOTS discharge

m^r Richard Collacot of Boston is freely discharg^d from attending upon ordinary Traynings hee keeping armes according to Law.

BAKER his discharge

Alexander Baker of Boston is freely discharged henceforth from attending upon ordinary Traynings hee keeping Armes according to Law.

Order for a meeting of m^r PAINES Creditor^{rs}

Whereas there is a Commission granted unto m^r Anthony Stoddard m^r John Joyliffe and m^r William Tailer to take in the claims of the Credito^{rs} to the Estate of m^r John Paine dece^d Jt's ordered that the s^d Commission^{rs} do forthwith call together all those who do appeare as Credito^{rs} or that make a claim to that Estate (at such time and place of Meeting as the s^d Commission^{rs} shall appoint) in order to their consulting of the most Speedy and effectuall course for the inquiring out and gathering in of that Estate. [505]

[BARKER & DICKENSON break prison]

Vpon the consideration of Benjamin Barker & John Dickenson their breaking prison and often running away since their receiving their Sentence and increasing charges: It's ordered that the persons concerned in them make Sale of them for what time they can for the full discharging of the Courts Sentence & other charges about them.

[Dickinson was in jail on a four-year sentence for stealing a horse. See above, p. 889. The following petition is in S. F. 1684:

To the Hon^{ble} Court of Assistants now Sitting In Boston March 5th 167 $\frac{7}{8}$ @
The Petition of Robert Earle Prison keeper in Boston

Humbly Sheweth that Whereas three Prison^{rs} namely Richard Cooley Benjamin Barker & Iohn Dickerson who were Committed to his Custody: have made their Escape out of the Common Goale where they were placed for Security: by Breaking up the Lower floare of the s^d Prison & Workeing them selves out under the Ground Sill of the s^d house: w^{ch} they the more Easily did and wth the Less noyse for that the floare of the s^d prison is much Rotten & Decayed

Yo^r Petio^r therefore humbly Intreats y^e favo^r of this Hon^{ble} Court not to Impute this their Escape to him as to any Neglect of his Duty: and also Intreats Yo^r Hono^{rs} to pass an order, The Treasure^r of the Country for the Speedy repaire of the Lower floare of the s^d Prison and the fences about the Same

Yo^r Petio^r doth hereby also Humbly Intreat the favo^r of this hono^{ble} Court to Signife to the Treasuro^r what the Annuall allowance or Sallery is, that hath bene of Late Yeares made by y^e Country to the prison keepers of Boston: for that the Treasuro^r doth affirme he hath no record to Cleare the Same to him; and to pass an Order to him for the paym^t of the Same, to Yo^r Petio^r as it Shall become due: wth what Farther Allowance Yo^r Hono^{rs} Shall See meet; for that he is Debarred of y^e priviledge of Retaileing beare w^{ch} hath bene often granted to others in the same place & office so shall yo^r be ever obliged to pray &c.

Robert Earle]

TREAT Sent^a

Matthias Treat convict by his own confession in Court of breaking open the warehouses of m^r Joseph Lynde & m^r James Russell of Charlestown and stealing thence severall goods, m^r Lynde giving in an acco^t to the value of twenty pounds that hee hath lost, and m^r Russell giving an acco^t of goods stole from him to Value of Seven pounds Seventeen Shillings. s^d Treat is Sentenced to bee whip't at Charlestown wth twenty Stripes and to pay to m^r Joseph Lynde Sixty pounds mony; To m^r James Russell twenty three pounds Eleven Shillings mony being 3^{ble} damages according to Law, standing committ^d untill hee performe this Sentance, and in case hee procure not Estate to pay the s^d Summes, Jt's ordered that m^r Lynde & m^r Russell pay his Court and prison fees with charges of prosecution and dispose of him in Service for their Satisfaction.

MESSENGER & HEWS Fin^d 5¹ apeice

Simeon Messenger and Joshua Hews bound over to this Court to answer for being unseasonably and in a suspitious manner in the

company of two women or women kinde and obstinately refusing to discover what women they were. Own^d that they were in the Evening in comp^a of two women kinde a little below the top of the hill behinde the house in which Gov^r Endicott last dwelt; but said they knew not theire names: The Court Sentenc^d s^d Messenger and Hews to pay five pounds apeice in mony fine to the County; unless they declare who the women kinde were that were At that time in theire company and to give bond wth Sureties of twenty pounds apeice for theire good behavio^r untill the next Court of this County, and to pay fees of Court standing committ^d &c.

BUMSTEED Fin^d 25^l

Jeremiah Bumstead convict by his own confession in Court of Selling five quarts of Cyder to an Indian; and also of Selling drinke without Licence to the English: Sentenced to pay five and twenty pounds in mony fine to the County according to Law and fees of Court standing committ^d &c.

HALL Fin^d 40^s

Abigail Hall complain^d of for being in a shamefull manner drunke onboard the Ship Prudent Mary Benjamin Gillam Master and using many obsceene Speeches the drunkenness Shee own^d The Court Sentenc^d s^d Hall to bee severely whip't with fifteen stripes, and to pay fees of Court and prison standing committ^d &c. Upon her and her daughter's petition The Court remitt^d her corporall punishm^t paying forty Shillings mony to the County.

STEVENS Sent^s

John Stevens prosecuted by John Read of Road Jsland and William Chaplin of Dorchester for borrowing a [506] horse of s^d Read under pretence of rideing him about four miles, rod him away to Boston and sold him to s^d Chaplin which hee confest in Court, and afterwards being apprehended by hue-en-cry for the same and committ^d to prison broke prison and run away: Sentenced to bee severely whip't with twenty Stripes and to pay unto John Read or his order Forty Shillings in money To W^m Chaplin four pounds fifteen Shillings money, and charges of prosecution with fees of Court and prison standing committ^d &c.

Dedham Commission^{rs}

The Court appoints Cap^{as} Daniel Fisher Ensigne Thomas Fuller and Serj^t Richard Ellice of Dedham to bee Commission^{rs} for ending of small causes within s^d Town for the yeare insuing.

WHARTON & GRIDLEY bound to y^e good behavio^r

Phillip Wharton and Mary Gridley formerly his wife being bound over to this Court to answer for their disorderly and offensive cohabiting together having Sued out a divorce, they own^d they did live together: Sentenced to give in bond with Sureties of twenty pounds apeice for their good abbearance untill the next Court of this County, especially to refrain the Company of each other and to pay fees of Court standing committ^d &c.

[The following document (S. F. 741.4) relates to an incident in the life of Mary Gridley when she was still married to Philip Wharton.

Dorcas Morrisse aged about twenty three yeares testif[eth] and Saith That Robert Hill Lodging in the House of William Morrice stayed at Home one Lords day in the Morning this Deponent went vp into His Chamber & Demanded of Him why hee did not Goe to the Meeting, & finding trimming himselfe, asked him the Reason why hee trimmed himselfe on the Lords Day his answer was that a pretty wench Inuited him to see her, in the afternoone, this Deponent Chiding him for so saying, hee Came Downe & went out, when hee Came Home at night This Deponent asked him what Meeting he had been at His answer was that he had been at a Church with a Chimney on it & Demanding of Him againe where he had been he swore by God he had been Cuckolding of her Landlord Wharton, this Deponent replied that she Hoped he had not Done so, but the said Hill answered yes by God but he had, & said she was a good Black Girle & would Entertayne a stranger Louingly, & that he had Done it now three times, & that shee had giuen him Leauē to take Tobaccho what he would out of the Sellar, And the Week following this Deponent saw John Denis Seruant to Phillippe Wharton Deliuier it to the said Hill Phillip Whartons wife being present, & gaue order for the Deliuering of it And farther this Deponent saith not: Dated the 26th Day of the 12 mo 1665 on the Que: she saith she knowes not How many Sabbaths since it was nor what time of the year,

Sworne 9.1:65

Before me Thomas Danforth]

HOLLINGSHEAD^s discharge

Richard Hollingshead of Boston is freely discharged from ordinary traynings by reason of bodily weakenesses attending him, hee keeping armes according to Law.

DAVENPORT^a discharge

Thomas Davenport of Dorchester by reason of age and weaknesses of body attending him is freely discharged from attending upon Ordinary traynings, hee keeping armes according to Law.

DOGGETT & ROBERTS fin^d 10^l

William Doggett and Peter Roberts convict by their own confession in Court of committing Fornication with Martha Horcely: Sentenced to bee severely whip't wth twenty stripes apeece standing committ^d &c. upon their humble petition their corporall punishm^t was remitt^d they paying five pounds apeece in money fine to the County

HORCELY whip't

Martha Horcely convict by her own confession in Court of committing Fornication with William Dogget & Peter Roberts immediately one after another, and in the sight of each other. Sentenced to bee severely whip't with twenty stripes, and to bee whip't again at Dorchester (the place of her abode) upon the next Lecture day with twenty stripes severely laid on and to pay fees of Court standing committ^d &c.

STYLES admonish't

Robert Styles of Dorchester presented for not attending the publique worship of God, negligence in his calling and not Submitting to Authority, testified upon the oathes of Thomas Davenport and Jsaac Jones, Grandjurymen: Sentenc^d to bee admonish't, and order that hee put forth his Children, or otherwise the Select men are hereby impoured to do it according to Law. [507]

BUTLER Sent^a

James Butler being charged by Mary Griffin to bee the reputed Father of an illegitimate Childe born of her body; which She alwaies and in the time of her extremity continued constant in The Court declare s^d Butler to bee the reputed Father of the s^d Childe according to Law, and order him to give Security to the Treasuro^r of Boston to Save the Town from charge as also Security to the Trea^r of the

County to pay two Shillings pence per weeke in money towards the maintenance of s^d Child untill the Court take further order, and to pay halfe the charge of the womans Lying in wth fees of Court standing committ^d &c.

HARTNON Sent^a

Katharin Hartnon convict of belying and scandalizing m^r Simon Lynde and his wife, Sentenced to bee whip't wth fifteen Stripes or to make an humble acknowledgem^t to the Court's Satisfaction and to aske forgiveness of m^r Lynde and his wife.

SMITH discharg^d

Joseph Smith being charged and prosecuted by Peter Goulding for Violating his oath in not giving in a full Inventory of the Estate of his late Mother Elizabeth Smith dece^d Vpon hearing of what was alleaged ag^t him The Court acquitted him from the charge.

WAGGITT Fin^d 5^s

Thomas Waggit complained of for taking up the bowle of a Silver Spoon, which hee had not cryed according to Law offering it to Sale unto the Gold Smith w^{ch} hee own^d Sentenc^d to pay five Shillings mony to the Treasuro^r of the County with the s^d peice of Spoon for the use of those that shall make out a right to it, and to pay fees of Court standing committ^d &c.

Order for the Prison Keeper

Jn Answer to the complaint and petition of the Keeper of the Prison in Boston: Jt is ordered that henceforth all persons who have Judgem^t against others for Satisfaction of damages in any criminall case, and are imprisoned untill they so do; do henceforth Secure the Keeper his fees as the Law provides upon Executions in civill causes otherwise the Keeper may dispose of them for his own Satisfaction; and that the Keeper timely Signify this order to all concerned.

DARBHEY Sent^a

Robert Darbey, and Sarah Sanderson convict by their own confession in Court of committing Fornication, but being since married.

Sentenced to bee whip't with ten Stripes apeice or to pay forty Shillings apeice in mony fine to the County and fees of Court standing committ^d &c.

BRIDGHAM his Guardian

m^r Henry Bridgeham having by his last will committed the care of his youngest Children unto his Son Jonathan Bridgeham; James the youngest Son of s^d Henry being now of age to choose a guardian appeared in Court & made choise of his s^d brother Jonathan to bee his guardian which hee accepted and the Court approved hee giving his own bond for the same. [508]

HARRISON discharg^d

John Harrison jun^r was discharged by proclamation from his bonds for good behavio^r

HOWELL Sent^a

John Howell bound over to this Court to answer for his wounding of Joshua Cobham upon his head; whereby hee hath been much damnified in expence for his cure and Loss of time, Upon due consideration of the case s^d Howell is Sentenced to pay unto s^d Joshua Cobham ten pounds in money damage and fees of Court.

Execution issued. 7. may. 1678.

SHIPPEN etc. Sent^a

Edward Shippen and George Danson convict by their own confession in Court of absenting themselves from the publique worship, the Law was read to them and they were Sentenced to pay for their transgression according to Law.

DANSON Admonish't

Elizabeth Danson convict as above and being her first conviction was admonish't and dismiss.

[LIDGETT Fined]

Charles Lidgett ordered to pay five Shillings in money fine to the County according to Law, for being unseasonably in the house of Widdow George Ordinary Keeper in Dorchester.

ROCK his discharge of Administraⁿ

m^r Joseph Rock presenting the Return of the Committee stated by the Generall Court for the Setling of the Estate of m^r John and m^{rs} Martha Coggan which was under his Administracion, and discharges for his payments according to theire order, which are on file The Court discharged him from his s^d Administracion and bond relating thereunto.

[Boston] Licences

m^r John Viall upon approbacion by the Select men of Boston was Licensed to keepe a house of publique Entertainment & to retaile Beere, Cider, and wine for the yeare ensuing; who gave bond for observance of the Laws.

Cap^{no} William Wright having like approbacion was Licensed to keepe a house for publique entertainm^t and to retaile Beere, Cider & wine for the yeare ensuing, who gave bond for observance of the Laws.

Widdow Wardell had her former Licence renewed to keepe a house for publique Entertainm^t and to retaile Beere & Cider for the yeare ensuing, and gave bond for observance of the Laws.

Francis Hudson having like approbacion was Licensed to keepe a house for publique Entertainm^t & to retaile Beere Cider & wine for the yeare ensuing, who gave bond for observance of the Laws.
[509]

Thomas Wheeler having approbacion of the Select men of Boston was Licensed to keepe a house for publique Entertainment & to retaile beere, Cider & wine for the yeare ensuing; who gave bond for observance of the Laws.

Robert Cox upon like approbacion was Licensed to keepe a house for publique entertainm^t & to retaile beere & Cider for the yeare ensuing, who gave bond for observance of the Laws.

Christopher Crow upon like approbacion was licensed to keepe a house for publique entertainm^t & to retaile beere and Cider for the yeare ensuing, who gave bond for observance of the Laws.

Thomas Sexton upon like approbacion was Licensed to keepe a house for publique entertainm^t & to retaile beere and Cider for the yeare ensuing; who gave bond for observance of the Laws.

William Kent upon like approbacion was Licensed to keepe a Cookes Shop, and to retaile beere Cider & wine for the yeare ensuing, who gave bond for observance of the Laws.

William Pollard upon like approbacion was Licensed to keepe a house for publique Entertainm^t & to retaile beere & Cider for the yeare ensuing, who gave bond for observance of the Laws.

W^m Norton upon like approbacion was Licensed to keepe a house for publique Entertainm^t & to retaile beere and Cider for the yeare ensuing; who gave bond for observance of the Laws.

Rebecca Winsor upon like approbacion was licensed to keepe a house for publique Entertainm^t & to retaile beere and Cider for the yeare ensuing, who gave bond for observance of the Laws.

John Keen upon like approbacion was Licensed to keepe a house for publique Entertainm^t and to retaile beere Cider and wine for the yeare ensuing, who gave bond for observance of the Laws.

Samuel Norden upon like approbacion was licensed to keepe a house for publique Entertainm^t and to retaile beere and Cider for the yeare ensuing, who gave bond for observance of the Laws.

Thomas Bill upon like approbacion was Licensed to keepe a house for publique entertainm^t & to retaile beere and Cider for the yeare ensuing, who gave bond for observance of the Laws. [510]

Jane Bernard Widdow, had her Licence renewed to keepe a house for publique entertainm^t & to retaile beere & Cider for the yeare ensuing; who gave bond for observance of the Laws

Arthur Kayne upon approbacion of the Select men of Boston was Licensed to keepe a Cookes Shop and to retaile penny beere for the yeare ensuing, who gave bond for observance of the Laws.

Nicholas Wilmot upon like approbacion was Licensed to keepe a house for publique entertainm^t & to retaile beere & Cider for the yeare ensuing, who gave bond for observance of the Laws.

John Turnor upon like approbacion was Licensed to keepe a house for publique entertainment & to retaile beere Cider wine and Brandy for the yeare ensuing who gave bond for observance of the Laws.

Elinor Phippany wife of Benjamin Phippany upon like approbacion was Licensed to keepe a house for publique entertainm^t to retaile beere and Cider for the yeare ensuing, and bond is given for her observance of the Laws.

Clement Gross upon Like approbacion was Licensed to keepe a

house for publique entertainm^t & to retaile beere and Cider for the yeare insuing.

Andrew Neale upon like approbacion was Licensed to keepe a house for publique entertainment & to retaile beere and Cider for the yeare insuing; who gave bond for observance of the Laws.

L^t John Smith of Winnisimmet upon like approbacion was Licensed to keepe a house for publique entertainm^t and to retaile beere Cider, wine and strong water for the yeare ensuing; who gave bond for observance of the Laws.

John Wing upon like approbacion was Licensed to keepe a house for publique entertainm^t to retaile beere Cider and wine for the yeare ensuing, who gave bond for observance of the Laws.

Phœbe Blantine Widdow upon like approbacion was Licensed to keepe a house for publique entertainment & to retaile beere and Cider for the yeare ensuing, who gave bond for observance of the Laws.

Cap^{ne} W^m Hudson had his former Licence renewed for to keepe a house for publique entertainm^t and to retaile beere Cider and wine for the yeare ensuing. [511]

Sarah Frankes Widdow upon approbacion of the Select men of Boston had her licence renewed to keepe a house for publique Entertainm^t and to retaile Beere & Cider for the yeare insuing.

Nathanael Bishop upon like approbacion had his Licence renewed to keepe a house for publique entertainm^t & to retaile beere and Cider for the yeare insueing.

SMITH &c. Strong Water-men

Thomas Smith, Joseph How; Benjamin Brisco & Anne Puglice, had each of them their former Licences renewed for the yeare ensuing to retaile strong waters; and either of them became bound in a bond of twenty pounds wth Sureties for their observance of the Laws, and that they would not Sell any to the Inhabitants of the Town to bee dranke in their houses.

Nathanael Robinson was Licensed to retaile strong waters and wine for the yeare insuing; who gave bond not to exceed his Licence and to observe the Laws.

L^t Rich^d Way was licensed to retaile wine & strong Liquo^{rs} out of dores for the yeare insuing; who gave bond not to transgress his Licence and to observe the Laws.

William Coleman was licensed to retaile strong waters by the gallon pottle or quart to Seamen that are bound to Sea, and to Country People, for the yeare insuing who gave bond not to transgress his licence & to observe the Laws.

Nathanael Beale of Hingham upon approbacion from the Select men of that Town had his Licence renewed to keepe a house for publique entertainm^t & to retaile beere Cider and wine for the yeare insuing; who gave bond for his observance of the Laws.

Joseph Dyer of Waymouth upon approbacion of the Selectmen of that Town had his Licence renewed to keepe a house for publique Entertainm^t & to retaile beere Cider wine and strong Liquors for the yeare insuing; who gave alike bond.

Joshua Fisher of Dedham upon approbacion of the Select men of that Town, had his Licence renewed to keepe a house for publique Entertainm^t & to retaile beere Cider wine and Lique^{rs} for the yeare insuing, who gave alike bond. [512]

[Licenses for beer, cider, and wine]

L^t Samuel Ruggles of Roxbury, upon approbation from the Select men, had his licence Renewed to keepe a house for publique entertainm^t and to retaile beere Cider and wine for the yeare insuing; who gave bond for observance of the Laws.

William Chaplin of Dorchester upon approbation from the Select men, was licensed to keepe a house for publique entertainment & to retaile beere Cider and victualls for the yeare insuing, who gave bond for observance of the Laws.

John Mills jun^r of Brantery upon approbation from the Select men had his Licence renewed to keepe a house for publique entertainm^t & to retaile beere Cider & wine for the yeare ensuing, who gave bond for observance of the Laws.

William Daniel of Milton upon approbation from the Select men, had his licence renewed to keepe a house for publique entertainm^t & to retaile beere Cider and wine for the yeare ensuing.

Jsaac Lobdell of Hull, upon approbation from the Selectmen had his licence renewed to keepe a house for publique entertainm^t & to retaile beere Cider & wine for the yeare ensuing, who gave bond for observance of the Laws.

[Miscellaneous Licenses]

John Sparrey of Boston was licensed to keepe a publique house for retailing of Coffee and Choccolato for the yeare insuing, who gave bond not to transgress his Licence but to observe the Laws.

Major Thomas Clarke and m^r Simon Lynde were licensed to furnish Fishermen, and others that are imployed in theire Service, with wine and Liquors for theire own occasions in small quantities.

Constant wife of Samuel Mattock upon approbation of the Selectmen of Boston had her licence renewed to keepe a house for publique Entertainm^t and to Sell beere and Cider by retaile for the yeare ensuing; and her husband gave bond for her observance of the Laws.

Jn^o Brooking upon approbacion of the Select men of Boston was licensed to keepe a Cookes Shop & retaile penny beere for the yeare insuing, who gave bond for observance of the laws.

John Jacob, upon approbacion of the Select men of Hingham had his licence renewed to keepe a house for publique entertainm^t & to retaile beere Cider & wine for the yeare ensuing who gave bond etc. [513]

COLCORD to STANYAN

Edward Colcord of Hampton personally appearing before John Leverett Esq^r Gov^r and Edw^d Tyng Esq^r Assist. May: 16^o 1678. confessed Judgem^t against his Estate and person unto John Stanyan & Joseph Chase of Hampton for the Summe of Five pounds to bee paid in money

as attests. Is^a Addington Cler.

Execution issued. May. 16^o 1678.

COLE to BOWDISH

John Cole of Marble head Fisherman appearing before John Leverett Esq^r Gov^r and Edw^d Tyng Esq^r Assist. June. 14^o 1678. confessed Judgement against his Estate and person unto William Bowdish of Salem Merchant for the Summe of Fifty one pounds to bee paid in Merchantable or refuse Fish at price currant.

as attests. Js^a Addington Cler.

Execution issued: 15^o June. 1678.

BEDWELL to BROMFEILD

Samuel Bedwell Jun^r appearing before John Leverett Esq^r Gov^r and Edward Tyng Esq^r Assist. July. 13th 1678. confessed Judgement against his Estate & person unto Edward Bromfeild for the Summe of three pounds Seven Shillings and Six pence to bee paid in money. as attests. Js^a Addington Cler.

SPARKES to BRADSTREET

Henry Sparkes late of Exitor now Sojourning at Chelmsford, personally appearing before John Leverett Esq^r Gov^r and Edw^d Tyng Esq^r Assist. 24^o July. 1678. confessed Judgement against his Estate & person unto Simon Bradstreet Esq^r for the Summe of twenty pounds to bee paid in good Merchantable pay.

as attests. Js^a Addington Cler [514]

At a County Court held at Boston 30th July. 1678.@

Present

JN^o LEVERETT Esq^r Gov^r
SIMON BRADSTREET Esq^r

EDW^d TYNG
JOSEPH DUDLEY } Esq^{rs}

Grandjury Sworn

L^t Jn^o Holbrooke
Tho: Dewer
Samuel Sendall
W^m Needham
John Conney
John Stebbins

Tho: Cheeny
Tho: Tilestone
W^m Pond
Robert Tucker
Josiah Chapen
W^m Avery Sen^r

Natha^l Whiting
John Turnor
Jeremiah Beale
Benjⁿ Bate
Sam^l Prince

Jury of Tryals Sworn

m^r Joshua Lamb
Sam^l Jacklen
Joseph Farnham
Rich^d Chick

Robert Spur
Tho: Holbrooke
Cornelius Fisher
Samuel Mills

Jn^o Thurston Sen^r
Tho: Gill Junio^r
Cornel^{us} Cattleberry
John Capen jun^r

[WALDRON v. HENDERSON]

Jsaac Waldron plaint. ag^t William Henderson Defen^{dt} in an action of the case for not doing nor causing to bee done for the s^d Waldron or his Jmployers all Carpenters worke upon the Ship now called the Prim Rose to the compleate fitting of the s^d Ship to the Sea with all possible Speed according to his Obligation under his hand bearing date the. 7th of January. 1677. whereby the s^d Waldron or his Jmployers are damnified since the. 30th of April last the value of thirty five pounds or thereabouts in money as shalbee made appeare this wth all other due damages etc. . . . The Jury . . . found for the Defend^t costs of Court.

[See the cases of same name, p. 901, above, and p. 1038, below.]

[MASON v. RISHWORTH]

Arthur Mason plaint. ag^t Edward Rishworth Defen^{dt} in an action of the case for not paying the Summe of Seventeen pound five Shillings in money due for Fifteen hundred weight of bread as shall appeare by bill under his hand bearing date the. 17th of August. 1676. with

all other due damages &c. . . . The Jury . . . found for the plaintiff. Seventeen pounds five Shillings in money & costs of Court. allow^d Nineteen Shillings and Ninepence.

Execution issued. 18^o 8^{br} 1678.

[WALDRON v. ARNALL]

Jsaac Waldron Assigne of Peter Janson de Vos plaintiff. ag^t William Arnall BlackSmith Defend^t in an action of debt of Seven pounds in money due by bill bearing date 12th X^{br} 1677. under the hand of s^d Arnall with all other due damages &c. . . . The Jury . . . found for the plaintiff. Seven pounds in money & costs of Court allow^d twenty Shillings eight pence.

JOHNSON agt. VSHER

Samuel Johnson former Master of the Ship named the two Sisters plaintiff. ag^t John Vsher part Owner of the s^d Ship Defend^t The plaintiff. was nonsuted in failure of process, commenceing his action ag^t the Owner.

GREENLEAFE ag^t WELLS

John Greenleafe plaintiff. ag^t John Wells Defend^t in an action of the case for sufficient Security for the [515] payment of Eleven pounds in money to which hee is bound as the condition of a bond under his hand & Seale bearing date. the. 26th of Septemb^r 1677. this with all other due damages. . . . The Jury . . . found for the Defend^t costs of Court.

BLEAZE ag^t EDWARDS

Caleb Bleaze plaintiff. ag^t Matthew Edwards Defend^t in an action of the case for that the s^d Edwards upon pretence or colour of a Judgem^t of Court hath unjustly taken out of the prison in Boston Richard Francis, and Sold him, received the money hee was sold for & detains it when the s^d Francis by the Judgem^t of the County Court in Boston was not to bee released from prison untill paying of Fourteen pounds in money unto the now plaintiff. as by the s^d Judgem^t shall appeare wth all other due damages &c. . . . The Jury . . . found for the plaintiff. Fourteen pounds money & costs of Court.

COBHAM agt. WELLS

Josiah Cobham Senior^r plaint. ag^t John Wells Defend^t in an action of debt of Five pound ten Shillings in money due for house Rent as shalbee made appeare under the hand of the s^d Wells & other Evidence wth all due damages &c. . . . The Jury . . . found for the plaint. five pounds ten Shillings in money & costs allow^d Sixteen Shillings & ten pence.

Execution issu^d July. 31^o 1678.

LONG ag^t ALFORD

William Long of Boston plaint. ag^t John Alford Defend^t in an action of debt of Seventy Seven pounds Seventeen Shillings and nine pence money due by bill bond or Writing under his hand and Seale bearing date. 29th of March. 1678. with all other due damages &c. . . . The Jury . . . found for the plaint. Seventy Seven pounds Seventeen Shillings nine pence money & costs of Court granted thirty two Shillings two pence.

Execution issued. aug^o 7^o 1678.

MORTON agt. WEBB

John Morton or his lawfull Attourney plaint. ag^t Christopher Webb as Agent to Prudence Gatcliffe Widdow Def^t in an action of the case for withholding the Summe of Sixty pounds in money due by bond bearing date the. 22^d of April: 1678. under the hand of the s^d Webb, for [516] that hee hath not perform^d the Award of L^t Edmund Quinsey and Josiah Chapen according thereunto, with all other due damages &c. . . . The Jury . . . found for the Defend^t costs of Court.

PURKIS agt. WINDER etc.

George Purkis Substitute of Charles Oughtred Attourney to Samuel Sheafe of London plaint. against the goods or Estate late belonging unto John Winder Merchant in the hands of John Palmer who married with Sarah the Relict and Adm^x of the Estate of s^d Winder or wheresoever else, and the goods or Estate late belonging unto Robert Gibbs Merchant in the hands of Jonathan Curwin who married wth Elisabeth the Relict and Adm^x of the Estate of s^d Gibbs: & James Whetcomb Merchant them or either of them Defend^{ts} according to attachm^t

dat^d 25^o Iuly. 1678. The action being called, and the attachm^t read, m^r Curwin one of the Def^{ts} produced a Letter of Attourny from Samuel Sheafe abovenamed of later date then the plaint^s made to a third person, and thereupon moved for a nonSute; which was granted him by the Court: The plaint. appeal^d from this Judgem^t or Sentence unto the next Court of Assistants & gave Security for the prosecution of his Appeale to Effect.

[See Purkis v. Winder et al., p. 1002, below, and Records of Court of Assistants, i. 123.]

PURKIS ag^t WINDER etc.

George Purkis Substitute of Charles Oughtred Attourny to Samuel Sheafe of London plaint. ag^t the goods or Estate late belonging unto John Winder Merch^t in the hands of John Palmer, who married with Sarah the Relict & adm^x of the Estate of s^d Winder or wheresoever else &c. as above Defend^{ts} according to Attachm^t dat^d 25^o Iuly: 1678. Judgem^t & Appeale in all respects as above.

GREEN ag^t JENNER

Mary Green Attourny of her husband Nathanael Green of Boston Marrin^r plaint. ag^t Thomas Jenner of Charlestown Marrin^r Defend^t in an action of the case for not paying the Summe of One hundred & Ninety pounds Starling mony of Barbados due unto s^d Green from s^d Thomas Jenner in and by a bond or Obligation under his hand & Seale bearing date. 2^d of October. 1675. &c. wth other due damages. . . . The Jury . . . found for the plaint. One hundred & Ninety pounds Starling mony of Barbados forfiture & costs of Court upon request of the Defend^t the plaint. acknowledging the receipt of Fifty pounds The Court chancered this [517] Forfiture unto Fifty Seven pounds New-England money in full of the remainder of the condition of s^d Obligation with all damages, and costs of Court grant^d thirty one shillings 6^d The Court Suspended this Judgement untill the next Court of this County according to law.

VSHER ag^t VSHER

John Vsher plaint. ag^t Hezekiah Vsher Defend^t The plaint. withdrew his Action.

YEALES agt. AYER

Timothy Yeales plaint. ag^t Peter Ayer of Havarill Defen^{dt} in an action of the case for unjustly and illegally taking off from the Wharfe of John Arnall in Boston about the middle of the month of April last past Six thousand foote of Merchantable pine boards which were the plaintifes, whereby the plaintife is greatly damnified with all other due damages &c. . . . The Jury . . . found for the plaint. twelve pounds money & costs of Court.

LONG ag^t ALLEN

William Long plaint. ag^t Abraham Allen Defend^t in an action of debt of five pound thirteen Shillings & Seven pence in money due by booke, with all other due damages &c. . . . The Jury . . . found for the plaint. five pound thirteen Shillings Seven pence money & costs of Court granted twenty Shillings.

Execution issued 20th aug^o 1678.

SAVAGE agt. Ship W^m & Henry

Ephraim Savage who married with Sarah Relict & Adm^x of the Estate of Obadiah Walker dece^d plaint. ag^t Ship W^m & Henry Jeremiah Cushing ma^r Defend^t in an action of debt of Fifteen pounds money disburst and paid by s^d Walker in part of payment for the building of s^d Ship &c. . . . The Jury . . . found for y^e Defend^t costs of Court.

CASEY agt. PALMER

John Casey Attourney of John Midgly the assigne of Jacob Bushe plaint. ag^t Lisle Palmer Defend^t in an action of debt of Forty five pounds Starling due by bill under the hand & Seale of the s^d Palmer bearing date. Octob^r 4th 1677. with all other due damages &c. . . . The Jury . . . found for the plaint. thirty five pound fourteen Shillings money and costs of Court. granted twenty Seven Shillings four pence.

Execution issued 7^o aug^o 1678.

John Vsher plaint. ag^t Hezekiah Vsher & m^r Samuel Nowell Defend^{ts} The plaint. withdrew his action.

PARKE agt. WOODEY

Deacon William Parke plaint. ag^t Richard Woodey Sen^r Defend^t in an action of the case for non payment of One hundred pound Starling to the s^d Parke which was the forfeiture of his bond dat^d 13.9: 1660. for the non payment of Fifty pounds by [518] m^r W^m Perkins or otherwise in London according to order from the s^d Parke and should have been paid. 25^o March. 1663. &c. . . . The Jury . . . found for the plaint. forfeiture of the bond One hundred pounds Starling & costs of Court. Upon Request of the Defend^t & hearing of both partys The Court chancered this forfeiture to Forty Eight pounds money and costs of Court granted twenty nine Shillings. 6^d Execution issued. 3^d Septemb^r 1678.

BARTHOLOMEW ag^t WISWALL

Joseph Bartholomew plaint. ag^t John Wiswall Junio^r Defend^t The plaint. withdrew his action.

Joseph Bartholomew plaint. ag^t John Wiswall Junio^r Defend^t The plaint. withdrew his Action.

John Wiswall Junio^r plaint. ag^t Joseph Bartholomew Defend^t The plaint. withdrew his action.

PHILLIPS ag^t HUTCHINSON

Henry Phillips plaint. ag^t Elisha Hutchinson who married Elizabeth Relict and adm^x to m^r John Freake dece^d & John Scarlett Exec^r to the last Will and Testam^t of Cap^{tn} Samuel Scarlett dece^d or either of them Defend^{ts} in an action of the case for not paying the Summe of two hundred twenty five pound currant money of New-England due as the forfeiture of a bond dat^d 13. March. 1672. under the hands & Seales of the s^d John Freake & Samuel Scarlett &c. . . . The Jury . . . found for the Defend^t costs of Court.

KENT ag^t PHILLIPS

William Kent plaint. ag^t Henry Phillips Defend^t in an action of debt for Eleven pound in money due for Rates s^d Kent paid for s^d Phillips to the Town of Boston in the yeares. 1676. & 1677. which Summe should have been paid by the s^d Phillips as Rates due for his house which the s^d Kent now liveth in as shall appeare under the

hands of the Select men of Boston wth other due damages &c. . . . The Jury . . . found for the plaint. Eleven pounds and costs of Court. Afterwards both partys by joint consent refer'd the finall issue of this case and the abovewritten (relating to m^r Kent his payment of his Rent) unto the Bench who determin^d that m^r Kent have five pounds allow^d him in full for Rates p^d by him, and that hee pay the Rent due to m^r Phillips, each person bearing theire own charge.

ALLEINE etc. ag^t TOMLIN

Henry Alleine & comp^a plaint^s ag^t William Tomlin Defend^t in an action of the case for not paying the Summe of Eleven pound nineteen Shillings and Six pence due upon acco^t as shalbee made appeare by Evidence with all other due damages etc. . . . The Jury . . . found for the Defend^t costs of Court. [519]

[See review of this case at April session, 1679, p. 1000, below.]

DAVIS ag^t JOHNSON

Samuel Davis pl^t ag^t Samuel Johnson formerly Master of the ship two Sisters Defend^t in an action of the case for not paying the Summe of five pounds in money or thereabouts due for wages for Service done by the s^d Davis as Marrin^r in the afores^d Ship being Shipped by the s^d Master at thirty Seven Shillings per month in money upon the. 7th of March last past &c. . . . The Jury . . . found for the plaint. five pound one Shilling six pence money and costs allowed Eighteen shillings two pence.

Execution issued 5^o aug^o 1678.

BRIGDEN ag^t JOHNSON

Thomas Brigden pl^t ag^t Samuel Johnson formerly Ma^r of the ship two Sisters Defend^t in an action of the case for not paying the Summe of Seven pounds ten shillings in money or thereabouts due for wages for Service done by the said Brigden as Masters Mate of the afores^d Ship, being Shipt by the s^d Master at Fifty five Shillings in money per month &c. . . . The Jury . . . found for the plaint. Seven pounds Eleven Shillings money and costs of Court allow^d Seventeen Shillings ten pence

Execution issued 5^o aug^o 1678.

SALTUS agt. JOHNSON

Henry Saltus plaint. ag^t Samuel Johnson formerly Ma^r of the Ship two Sisters Defend^t in an action of the case for not paying the Summe of five pound in money or thereabouts due for wages for Service done by the s^d Saltus as Boatswain of the afores^d Ship being Shipped by the s^d Master at thirty Seven Shillings per month in money upon the. 7th of March last past: . . . The Jury . . . found for the plaint. five pound one Shilling six pence money & costs of Court allow^d twenty Shillings & ten pence.

Execution issued 5^o aug^o 1678

WALLEY agt. MEADER

John Walley plaint. ag^t John Meader Defend^t in an action of the case for the non payment of twenty pounds in money due by booke or thereabouts: . . . The Jury . . . found for the plaint. Seventeen pounds fifteen Shillings halfe penny money & costs of Court allowed twenty Shillings.

Execution issued

THOMAS agt. COBHAM

George Thomas plaint. ag^t Martha Cobham Defend^t in an action of debt of Seven pounds fifteen Shillings & nine pence in money or thereabout due for a hogsh^d of Sugar Sold and delivered her as shalbee made appeare with all other due damages &c. . . . The Jury . . . found for the plaint. Seven pounds fifteen Shillings nine pence money & costs of Court allow^d twenty three Shillings six pence.

Execution issued aug^o 9^o 1678. [520]

BYFEILD agt. PERSONS

Nathanael Byfeild plaint. ag^t Phillip Persons of Marblehead Defend^t in an action of debt of Fifty pound thirteen Shillings in money or thereabouts due by booke with all other due damages &c. . . . The Jury . . . found for the plaint. Fifty pounds thirteen Shillings Eight pence three farthings money & costs of Court

LANCASTER agt. MASON etc.

William Lancaster & Jane his wife one of the daughters of Lionell Wheatley and a Legatee mentioned in his Will plaint. ag^t Arthur

Mason and Thomas Dewer Exec^{rs} of the last Will & Testam^t of s^d Lionell Wheatley late of Boston dece^d or either of them Defend^{ts} in an action of the case for not paying the proportion or Share given to the s^d Jane Lancaster by the Will of s^d Lionell Wheatley being to the Value of One hundred & ten pounds of currant money or thereabouts with all other due damages &c. . . . The Jury. . . found for the Defend^t costs of Court granted ten Shillings and ten pence.

ROSE agt. PITMAN

Roger Rose plaint. ag^t William Pitman Defend^t in an action of Battery striking him with a quart pot &c. . . . The Jury . . . found for the Defend^t costs of Court.

ROSE agt. STOWELL

Roger Rose plaint. ag^t Samuel Stowell of Hingham Defend^t in an action of the case for not delivering the quantity of twelve cord of wood according to bill under his hand which is to the plaint^s damage three pound Six Shillings in money with all other due damages &c. . . . The Jury . . . found for the Defend^t costs of Court allow^d twenty nine Shillings Eight pence. The plaint. appealed from this Judgem^t unto the next Court of Assistants and put in Security for the prosecution thereof to Effect.

[The bill, Burrell's receipt for 12 cords from Stowell on account of Roger Rose at Elder Bates' landing place at Weymouth, and various depositions are in S. F. 1722.2-6. Rose appealed (S. F. 1722.1), alleging the wood was not delivered to the proper place at the time agreed, and that the wood delivered at Bates' landing was rotten and measured but 9 cords. The Court of Assistants (Records, i. 121) sustained the lower court, and Rose had to pay 48s 3d costs.]

FOX ag^t LEVERETT

Nathanael Fox plaint. on replevin ag^t John Leverett Esq^r Defend^t The plaint. was nonsuted in failure of process not giving a Summons.

DELL agt. LONGFELLOW

Joseph Dell plaint. ag^t William Longfellow Defend^t in an action of the case for the Forfiture of a bond of three hundred and one pounds fourteen Shillings and four pence in money &c. . . . The Jury . . . found for the Defend^t costs of Court. [521]

DUDLEY ag^t DUTCH etc.

Paul Dudley Merch^t plaint. ag^t Robert Dutch Sen^r of Ipswich and John Kent Jun^r of Newberry or either of them Defend^{ts} for breach of bond of Fifty pounds bearing date. 15^o April: 1678. with all damages &c. . . . The Jury . . . found for the plaint. forfeiture of the bond fifty pounds money and costs of Court grant^d twenty four Shillings ten pence

Execution issued 5^o aug^o 1678.

ALLEN ag^t GIBSON

Bozoon Allen plaint. ag^t William Gibson Defend^t The plaint. withdrew his action.

BARTON ag^t GROSS

James Barton Attourney of Jsaac Barton plaint. ag^t Clement Gross Defend^t The plaint. withdrew his Action.

BAKER agt. MATTOCK

Nathanael Baker plaint. ag^t Samuel Mattock Defend^t The s^d Samuel Mattock came into the Court & confes^t Judgem^t ag^t his Estate and person unto Nathanael Baker for three pounds Sixteen Shillings & six pence to bee paid in money and Six thite barrells.

ROSE ag^t WELLS

Roger Rose plaint. ag^t Thomas Wells Defend^t in an action of debt of three pounds in money due by bill with all other due damages &c. . . . The Jury . . . found for the plaint. three pounds in money or leather at money price according to bill & costs of Court granted Eighteen shillings six pence.

Execution issued aug^o 15^o 1678.

KENT etc. agt. WAY etc.

William Kent & Richard Knight Attournies to Samuel Hawford plaint^s agt. the goods or Estate or money that did belong to the Estate of Andrew Sheppard late of Boston dece^d whither in the hands of Richard Way and John Indicott Sureties to Martha Emery or wherever in an action of the case for not delivering one quarter

part of the Barque Thomas & Mary & her loading of logwood brought from the Bay of Campechy being 23 tons 19^c: 2: 17: together with an acco^t & the produce of the s^d Barques Earnings for severall Voyages: Also for not delivering one third part of the produce of ten tons 0: 1^{qr} 0. Logwood which was brought from the s^d Bay of Campechy by Nathanael Man and deliurd to s^d Sheppard and by him Sold to m^r E^m Hutchinson at £. 9: 5: 0 per ton whereby s^d Hawford is damnified at least £.150. wth other due damages &c. . . . The Jury . . . found for the plaint. one third part of the Logwood Ship't onboard the Katch Industry Nathanael Man ma^r and that the Defend^{ts} shall within ten dayes give unto the pl^{ts} a just Acc^o and the Effects of s^d Logwood or to pay Forty pounds money & costs of Court. Richard Way and John Jndicott appearing as Defend^{ts} appeal^d from this judgem^t unto the next Court of Assistants [522] and s^d Jndicott gave Security for prosecution of his appeale to Effect.

[See Alford v. Endicott, above, p. 726. A few fragmentary documents on this case are in S. F. 162179. See Records of Court of Assistants, i. 122.]

ALFORD agt. WAY etc.

Benjamin Alford attourney of John Sweeting of London Adm^r to the Estate of his Son John Sweeting dece^d plaint. ag^t Martha Emery heire to the Estate of Andrew Sheppard dece^d and Richard Way & John Jndicott as Sureties for Martha Emery as heire afores^d Defend^{ts} in an action of the case to the Value of £ 150. for withholding and refusing to deliver to the said Benjamin Alford as Attourney afores^d one quarter part of the barque Tho: and Mary of which the s^d John Sweeting dece^d was Owner, or the money or Effects for which the s^d quart^r part was Sold: Also for refusing to render to the s^d Alford as Attourney afores^d the acco^t of the Stock and Earnings and the proceeds of the freight and employm^t of the s^d Barque in her last Voyage from Boston in to the Jndies & to Boston again under command of the s^d Sheppard with all other due damages &c: . . . The Jury . . . found for the plaint. one quarter part of the Barque called Tho: & Mary being the Vessell now in controversy & a just acc^o of the Stock and Earnings of the s^d Vessell the last Voyage the Vessell made into the Jndies and from thence to Boston under the command of m^r Andrew Sheppard or Fifty pounds money within twenty dayes and costs of Court. L^t Way and John Jndicott appearing as Defend^{ts}

appeal^d from this Judgem^t unto the next Court of Assistants, and the Defend^t John Indicott gave in Security for the prosecution of his appeale to Effect.

[See Alford v. Endicott, above, p. 726, and Records of Court of Assistants, i. 122.]

Vsher ag^t PICKERING

John Vsher plaint. ag^t Sarah Pickering Defend^t in an action of debt of Nine pound three shillings in money due by booke which shall farther appeare by bill under the hand of the s^d Pickering dat^d 5^o 8^r 1675. with all due damages. . . . The Jury . . . found for the plaint. nine pound three shillings money and costs of Court grant^d Eighteen shillings.

Execution issued Aug^o 14^o 1678.

LEVERETT ag^t Fox

John Leverett Esq^r plaint. ag^t Nathan¹¹ Fox Defend^t in an action of trespass upon the case for groundeing two Sloopes in the Dock or Creeke of the s^d John Leverett, in Boston and thereby stopping the passage and defameing the just title of the s^d Leverett in the s^d dock or Creeke to his damage One hundred pounds in money wth all other due damages: . . . The Jury . . . found for the plaint. the dock or Creeke now in controversy ten shillings money damage and costs of Court. The Defend^t appeal^d from this Judgem^t unto the next Court of Assistants and gave Security for the prosecution thereof to Effect. [523]

[The plaintiff withdrew his action before it reached the higher court. Records of Court of Assistants, i. 125.]

BATTERY to PALMER

Edward Battery personally appearing in Court confessed judgement agt. his Estate and person unto Lisle Palmer for five pounds two Shillings Six pence to bee p^d in money according to bill.

Execution issued aug^o 19^o 1678.

MARCH to DEANE

Hugh March of Newberry personally appearing in Court, confessed Judgement ag^t his Estate and person for twelve pounds Fifteen Shillings to bee p^d in money unto Thomas Deane of Boston

Merch^t in full of a bill on file: the s^d m^r Deane personally appearing in the Office: 16^o aug^o 1678. acknowledged that hee had received full Satisfaction of the abovewritten Judgem^t

SWETT to WEBB

Stephen Swett Senio^r of Newberry personally appearing in Court confes^t judgem^t ag^t his Estate and person unto Joseph Webb of Boston for Six pounds two & Six pence to bee p^d in mony

Execution issued. 14^o April. 1679.

PRINCE Fin^d

Samuel Prince of Hull for not attending the Service of the Grand-jury according to Summons was fined twenty Shillings; but hee afterwards appearing and making his excuse the Court remitted it.

GREEN Fin^d

Tobias Green of Hull for not attending the Service of the Jury of Tryals according to Summons was fined ten Shillings in money.

PUGSLEY to PEGGE

Richard Pugsley appearing in Court confessed judgem^t ag^t his Estate and person unto Edward Pegge Attourney of Richard Hyde of Salem for the Summe of five pounds one Shilling to bee paid in money, in full of a bill on file with damages.

Excucion issued. 3^o aug^o 1678.

BATTERY to CODNER

Edward Battery appearing in Court confessed judgem^t ag^t his Estate and person unto Richard Codner for five pounds to bee p^d in money.

Execution issued. 19^o aug^o 1678.

CHECKLEY to BALSTONE

Anthony Checkley personally appearing before Edw^d Tyng Esq^r & Joseph Dudley Esq^r Assist^s 30th July 1678. confessed Judgem^t ag^t his Estate and person unto Jonathan Balston Senio^r the order of John Noyes for twenty pounds in money in full of a bill on file.

Execucion issued. 12^o aug^o 1678.

CLARKE Fin^d 10^s

Hugh Clarke presented for taking Tobacco in Boston Streets; which hee owned. Sentenced to pay ten Shillings in money fine according to Law.

WHITE his discharge from Trayning

John White Senio^r of Muddy River In Answer to his petition is dismis't from attending upon ordinary traynings, hee keeping Six good fire armes with appurtenances & ammunition proportionable to bee alwaies in a readiness for the Country's Service, and in defect thereof to pay for not trayning according to law. [524]

GROSS to BARTON

Clement Gross personally appearing in Court July. 31^o 1678. confessed judgem^t against his Estate and person unto James Barton Attourney of Jsaac Barton for thirty one pounds thirteen Shillings six pence to bee p^d in money in full of a bill on file with damages.

Execution issued. 3^d X^{br} 1678.

FULLER Fin^d £.5.

Samuel Fuller convict by his own confession in Court of committing Fornication with Sarah Rice, by whome Shee hath had a bastard Childe. Sentenced to bee whipt with twenty stripes or to pay five pounds money fine to the County, and to two Shillings per weeke to the s^d Sarah towards the maintenance of s^d Childe untill this Court take further order and to pay fees of Court standing committ^d &c. the s^d Sam^l Fuller principall in twenty pounds and John Fuller Surety in £.20: bound themselves in Court jointly and severally unto the Treasuro^r for the County in the Summes afores^d for securing the abovementioned weekly payment.

RICE Fin^d £ 5.

Sarah Rice alike convict of committing Fornication with Sam^l Fuller. Sentenced to bee whipt with fifteen Stripes or to pay five pounds in money fine to the County and fees of Court standing committed &c.

ARMITAGE present^d

Hannah Armitage presented by the Grandjury for excessive drinking: The presentm^t not being proved Shee was dismiss't.

HOLLIS Fin^d 10^s

Elizabeth Hollis wife of John Hollis present^d for delivering a quart of Liquors to an Indian; which Shee owned before two witnesses and afterwards denyed it: Sentenced for her lying to bee whip't with ten Stripes or to pay ten Shillings money fine to the County and fees of Court standing committ^d

LUDDEN Fin^d 10^s

Benjamin Ludden complained of by Giles Goddard for assailing and beating of him drawing much blood from him and strikeing of s^d Goddards Servant. Sentenc^d to pay ten Shillings money fine to the County and to pay unto s^d Goddard Forty Shillings money for damages to himselfe and Serv^t and to pay fees of Court standing committ^d &c.

GODDARD ordered to pay. 5^s

Giles Goddard for taking away a Canoo from the Boate whereof Valentine Decro was Master without leave, Ordered to pay unto s^d Decro five Shillings according to Law.

DECRO Sentenc^d

Volentine Decro prosecuted by John Man for taking off a quantity of stones from the out-wharfe in Boston belonging to s^d Man. Ordered to lay ten tons of stone upon s^d wharfe within the space of one weeke next following or to pay unto s^d Man thirty Shillings in money wth charges of prosecution granted twenty Shillings.

Jsrail Levet presented for drunkenness. not proved.

HOBART caution^d

Joshua Hobart jun^r present^d for Selling Liquo^{rs} without Licence, curseing Swearing &c. nothing was proved, but Selling of Liquo^{rs} which hee owned, onely pleaded hee did it upon his Fathers licence:

The Court declare that Cap^t Hobart hath no liberty to impower his Son so to do and that if hee continue in the practice thereof hereafter hee wilbee acco^{td} a transgresso^r of the Law. [525]

John Angel of Hingham Miller presented for taking more toll then his due, not being proved hee dismis't.

BAKER Fin^d 20^s

Nathanael Baker of Hingham complained of for putting in more Votes then one for one Selectman at a time. upon hearing of what was alleaged and proved against him: The Court Sentenc^d him to pay twenty Shillings money fine to the County twenty Shillings charges of prosecutⁿ and fees of Court standing committ^d &c.

CHILDE Sent^a

Alwin Childe being accused by Dyonisia Savage to bee the reputed Father of a bastard Childe late born of her body which Shee constantly persisted in both before & in the time of her travail and also gave Oath thereof in Court; s^d Childe is declared to bee the reputed Father according to Law of the s^d Childe, and Ordered to pay unto the s^d Dyonisia Four Shillings in money per weeke weekly towards the maintenance of s^d Childe untill the Court take further order and to give Security for the same and pay fees of Court standing committ^d &c.

SAVAGE Sent^a

Dyonisia Savage convict by her own confession in Court of committing Fornication and having a bastard Childe, Shee chargeing m^r Alwin Childe to bee the Father thereof: Sentenc^d to bee whip't with twenty Stripes or to pay Fifteen pounds in money fine to the County and fees of Court standing committ^d &c.

[The fine was abated at the October session. See p. 959, below.]

HEWS discharge

Joshua Hews upon proclamation made was discharged from his bond for his good abbearance.

Order to Cap^t WHIPPLE

It's Ordered that Cap^{tn} John Whipple, who is nominated Exec^r of the last will of m^{rs} Margaret Rogers dece^d do appeare within

fourteen dayes after notice hereof and make probate of s^d Will, or else that Administracion bee granted to some of the Credito^{rs} the goods left by the dece^d lying upon Spoyle and some of the Credito^{rs} being willing to take theire own goods again cannot receive them.

PERKINS to WOODDE

William Perkins of Topsfeild personally appearing confessed judgement against his Estate and person unto Ensigne Richard Woodde of Boston for the Summe of Forty nine pounds due unto the s^d Woodde to bee paid in money

Freemen Sworn

Joseph Bridgeham, Joshua Winsor, William Sumner, John Goffe, and John Barnard all of Boston tooke the oath of freedom of this Colony.

RIGBY present^d

Samuel Rigbey of Dorchester present^d by the Grandjury for excessive drinkings disorders in his family & striking his wife, claimed the benefit of a Jury, which was grant^d him; after the charge was read and present^d to the Jury; none of the witnesses cited and Summoned would testify any of the charges The Jury brought him in not guilty. [526]

Thomas Gill junio^r of Hingham tooke the oath of Freedom.

SNELL Fin^d £.10.

Sarah Snell being accused of wanton lascivious carriages put her Selfe on a tryal by a Jury, who found her guilty of wanton and lascivious carriages The Court Sentenced her to bee whip't with twenty Stripes, to pay charges of prosecution and fees of Court standing committed &^a upon her petition remitted her punishm^t upon payment of ten pounds money.

HILL admonish't

Patience Hill present^d for her disorderly carriages in the South meetinghouse in time of publique worship, was admonish't, and ordered to pay fees of Court.

AUBORNE Fin^d £.5.

Rebecca Auborne convict by her own confession in Court of committing Fornication with Samuel Kemble having a bastard Childe, Sentenced to bee whip't with Fifteen Stripes and to pay fees of Court standing committ^d &c. afterwards remitted her punishm^t upon payment of five pounds in money.

KEMBLE Sent^a

Samuel Kemble is declared to bee the reputed Father according to Law of the Childe late born of the body of Rebecca Auborne, and ordered to pay unto the s^d Rebecca, two Shillings six pence in money per weeke weekly towards the maintenance of s^d Childe and to give in twenty pounds Security for the same untill the Court take further order and to pay fees of Court standing committ^d &c.

GILBERT to LEVERETT

William Gilbert personally appearing in Court confes't Judgem^t against his Estate and person unto Hudson Leverett for twenty pounds to bee paid in money being in full of a bill on file.

Execution issued. 5^o aug^o 1678.

MESSENGER admonish't

Simeon Messenger bound over to answer for being at the house of Arthur Keyne in comp^a with Tho: Hichborn and others where was quarrelling and fighting was admonisht and ordered to pay fees of Court.

HICHBORN Fin^d 10^s

Thomas Hichborn for quarreling and fighting at the house of Arthur Keyne Sentenced to pay ten Shillings in money fine and fees of Court standing committ^d &c.

GILL Admonish't

Abigail Gill wife of John Gill complained of for being in company of severall men at the house of Arthur Keyne, drinking and dancing, was admonish't and ordered to pay fees of Court.

PEGGE Fin^d 5^s

Edward Pegge present^d for being unseasonably at the house of Widdow George in Dorchester. Sentenced to pay five Shillings in money fine to the County and fees of Court.

JOSEPH Indian Fin^d 3^s 4

Joseph Indian living with Enoch Wiswall of Dorchester convict by his own confession in Court of breach of the peace Sentenc^d to pay ten groates in money fine.

KEYNE Fin^d £.5.

Arthur Keyne convict by his own confession in Court of Selling Strong beere and Cider without licence, Sentenced to pay five pounds in money fine according to Law and fees of Court standing committ^d &^a [527]

FORSTER Fin^d 10^s

Miles Fo^rster convict by his own confession in Court of keeping open his Shop or Warehouse windows on a publique day of humiliation Sentenced to pay ten Shillings in money fine and fees of Court.

RUSSELL Sent^a

Elizabeth Russell Widdow convict by her confession in Court of committing Fornication. Sentenc^d to bee whip't with fifteen Stripes.

WELDEN ordered to depart

Daniel Welden a Carter being complained of by the Select men of Boston for having a wife in London, and yet remaining in this Town without theire allowance: Ordered to depart to his wife by the next oppertunity of Shipping under the penalty expres't in the Law.

Order about BLEASE & EDWARDS

Upon a full hearing of the case between Caleb Blease and Matthew Edwards his late Master: Ordered that s^d Blease pay unto s^d Edwards Seven pounds in money for what s^d Edwards paid for him and the charges expended him & Cap^t Poole in prosecuting Ri: Francis amounting to Forty two Shillings, in all £.9:2:0. and this to bee a finall issue and the Judgem^t of this Court to stand good for s^d Blease.

ELLIS his discharge from Trayning

Edward Ellis being improved in the practice of Chyrurgery is thereupon freely discharged from attending upon ordinary Traynings.

EGGEN admonish't

Elizabeth Eggen present^d for entertaining of Strangers in her husbands absence was admonish't not to give entertainm^t to Lodgers.

TIPPING Ordered to depart

John Tipping Cordwainer being present^d for making Sute to some maids or women in order to marriage, hee having a wife in London, hee own^d that hee had a wife but denyed his making Sute to any person as above: Js Ordered to depart to his wife by the next oppertunity of Shipping under the penalty expres't in y^e law. being twenty pounds

HETTS theire Guardians

Samuel Hett appearing in Court made choise of Ensigne Ri: Woode to bee his Guardian; which hee accepted and the Court allowed hee giving bond according to Law.

Hannah Hett appearing in Court made choice of Cap^{tn} Daniel Henchman to bee her Guardian, which hee accepted and the Court allowed hee giving bond according to law.

The Court appoint^d Cap^{tn} Daniel Henchman & Ensigne Richard Woode to bee joint Guardians to John Thomas and Mary Hett Children of Anne Hett Widdow dece^d being under age to choose for themselves.

COLCORD Sent^a

Edward Colcord convict of Stealing a purse of money from Robert Thornton containing about ten pounds: Sentenc^d to Sit in the Stocks two houres too morrow in Court time and to pay unto s^d Thornton twenty pounds in money being the remaind^r of 3^{ble} damages according to law, and to give in bond of twenty pounds for his good abbearance untill the next Court of [528] this County and to pay fees of Court standing committ^d &c. s^d Edw: Colcord and Tho: Thorton of Hampton were bound jointly and severally in the Summe of twenty pounds unto the Treasuro^r of the County for s^d Coldcord his good abbearance.

COBHAM's discharge

Josia Cobham of Boston by reason of age and infirmities of body attending him is discharged from ordinary traynings, hee providing three fire armes ammunition &c^a according to law, to bee alwaies in a readiness for the Country's service.

At a Meeting of the Governo^r & Magistrates in Boston: 22^o Aug^o 1678. @

Present

JOHN LEVERETT Esq^r Gov^r
SIMON BRADSTREET Esq^r

EDW^d TYNG Esq^r
JOSEPH DUDLEY Esq^r Ass^{ts}

GETLIVE^s Guardians

m^r Amos Richardson of Stoningtown, m^r John Fayerweather and m^r Arthur Mason both of Boston are appointed to bee Guardians unto Jonathan Getlive and Thomas Getlive, Sons of the late Jonathan Getlive of Boston Marrin^r dece^d during their non age, to take care of the Education of the s^d Children and to take in to their custody the portions or Estate belonging to the s^d Children left them by their s^d Father & mother now also dece^d and to improve the same for the benefit of s^d Children, they giving Security for the discharge of their trust according to Law.

Js^a Addington Cler.

CROW to EYRE

Christopher Crow appeared before John Leverett Esq^r Gov^r and Edward Tyng Esq^r Assist. Aug^o 26^o 1678. and confessed Judgement against his Estate and person unto John Eyre for nine pounds thirteen Shillings and six pence to bee paid in money in full of all acco^{ts}

Js^a Addington Cler.

7th Septemb^r 1678

MACKARTER to CHILDE

John Mackarter of Salem Dyer appearing before the Worpp^{li} Daniel Gookin Esq^r and Edward Tyng Esq^r Assist^s confes't Judgem^t

ag^t his Estate and person unto Alwin Childe for the Summe of thirty pounds nine Shillings in money in full of a debt due by booke.

Js^a Addington Cler.

Execution issued 18^o 7^{br} 1678.

Present

JN^o LEVERETT Esq^r Gov^r

SIMON BRADSTREET Esq^r
& EDW: TYNG Esq^r

[CUSHING's Guardian]

Matthew Cushing appearing before the Governo^r & Magistrates in Boston. 5^o Septemb^r 1678. not being of full age, made choice of his Father Daniel Cushing of Hingham to bee his Guardian relating to a Legacy of Fifty pounds given him by the last Will and Testam^t of Peter Cushing late Citizen and Turner of London; the s^d Daniel accepted the trust and the Governo^r and Magistrates allowed the choice:

as attests. Js^a Addington Cler.

17th Septemb^r 1678.

COLCORD to THORNTUN

Edward Colcord personally appearing before John Leverett Esq^r Gov^r and Edward Tyng Esq^r Assist. confest Judgem^t against his Estate unto John Wing attourney of Robert Thorntun for twenty pounds to bee paid in money, and declared it lawfull for the Marshall to make Sale of his Estate by out cry to make money for the Satisfaction of s^d Judgem^t for which Summe hee stands committed to prison by the Sentence of the last County Court in Boston untill it bee paid.

as attests. Js^a Addington Cler.

Execution issued 18^o Sept^r 1678. [529]

ARNALL to RAWSON

William Arnall of Redding personally appearing before John Leverett Esq^r Gov^r and Edw^d Tyng Esq^r Assist. Octob^r 7th 1678. confest judgem^t against his Estate and person unto William Rawson

of Boston for three pounds fourteen Shillings to bee paid in money in full of all acco^s with charges.

Js^a Addington Cler.

Execut^a issued. 30th 8^{br} 78.

TRICK to POOLE

Elias Trick of Marblehead Fisherman appearing before Edward Tyng Esq^r and Joseph Dudley Esq^r Assist^s 24^o October. 1678. confes't judgem^t against his Estate and person for thirty two pounds two Shillings and two pence to bee paid unto John Poole in money or Fish at money price, being in full of two bills on file and a Booke debt.

Js^a Addington Cler.

BRISCO to ALLEINE

Benjamin Brisco personally appearing before Simon Bradstreet Esq^r Deputy Gov^r and Edward Tyng Esq^r Assist. Octob^r 28^o 1678. confes't Judgem^t against his Estate and person unto Henry Alleine Merch^t for twenty nine pounds three Shillings to bee p^d in money in full of a bill on file with charges and otherwise due.

Js^a Addington Cler.

Execut^a issued. 13^o Janur^o 1678. [530]

At a County Court held at Boston 29^o Octob^r 1678.@

Present

JOHN LEVERETT Esq ^r Gov ^r	EDW ^d TYNG Esq ^r	} Ass ^{ts}
SIMON BRADSTREET Esq ^r Dep ^t Gov ^r	JO: DUDLEY Esq ^r	

Grandjury the same as at the former Court

Jury of Tryals Sworn

L ^t Pen Townsend	Benj ⁿ Leeds	Ephram. Hunt jun ^r
Timothy Thornt ⁿ	Jn ^o Lewis	Jn ^o Mason
W ^m Smith	Edw. Vose	Josia Lane
Philip Searle	Jn ^o French Sen ^r	Jn ^o Langle

[ELYOTT v. STARR]

Henry Elyott plaint. ag^t Robert Starr Defend^t in an action of the case for refusing to pay the Summe of Seven pounds ten Shillings in money due for a horse Sold him: The action being called the Defendant appeared not but m^r Anthony Checkley declared hee appeared as his Surety: . . . The Jury . . . found for the plaint. Seven pounds five Shillings money and costs of Court granted thirty Six Shillings Fou^r pence.

[HARBOUR v. WEBB and ALLEN]

John Harbour plaint. ag^t Christopher Webb & Joseph Allen Defend^{ts} in an action of Reveiw of a case tried at the County Court held at Boston in april last where the s^d Webb and Allen obtained judgem^t ag^t the plaint. for costs of Court Fifteen Shillings and two pence: . . . The Jury . . . found for the plaint. three pounds money damage and costs of Court thirty one Shillings six pence.

Execution issued. Nov^r 15. 1678.

[PECK v. WELLS]

Thomas Peck jun^r plaint. ag^t John Wells Defend^t in an action of the case for the Forfiture of a bond of Ninety pounds in money, bearing date the sixth of Octob^r 1677. . . . The Jury . . . found for the plaint. Forfiture of the bond Ninety pounds money and costs of Court granted £. one pound eighteen Shillings two pence.

Execution issued 19^o Feb^r 1678/9.

William Coleman plaint. ag^t m^r Humphry Davie Defend^t The plaint. was nonsuted upon non appearance.

FRANKLYN agt. WARNER

Katharin Franklyn Attourney of Benj^a Franklyn plaint. ag^t John Warner Defend^t in an action of the case for not paying the Summe of twelve pounds or thereabouts in money due for diet washing and lodging. . . . The Jury . . . found for the plaint. twelve pounds Seven Shillings money and costs of Court granted twenty Shillings.

Execution issued 12^o Novemb^r 1678.

[See the review of this case in session of 29 July, 1679, below, p. 1055.]

Vsher agt. VSHER etc.

John Vsher trustee for Hezekiah Browne plaint. ag^t Hezekiah Vsher Exec^r and m^r Samuel Nowell who married with Mary the Relict and Executrix of the last Will of Hezekiah Vsher Senio^r Defend^{ts} in an action of the case for not paying unto him the s^d John Vsher the Summe of four hundred pound given by Hezekiah [531] Vsher Senio^r in his last Will to Hezekiah Browne his grandchilde and ordered to bee left in the hands of s^d John Vsher: . . . The Jury . . . found for the plaint. Four hundred pounds according to Will but no costs of Court.

[This case appears to have turned largely on the question whether Hezekiah Usher's legacies to Hezekiah and Elizabeth Brown should or should not have been paid in money. John Usher deposed (S. F. 2060.7) that such was his honored father's intention, as did John Hull (2060.11). The pertinent extracts from the will (S. F. 1464) and the inventory (S. F. 2060.10) follow:

Jtem: J give and bequeath unto my Grand Children Hezekiah Browne and Elizabeth Browne all their movables that were their mothers to bee equally divided between them; Also J give unto the said Hezekiah Browne the Summe of Four hundred pounds as his portion which Summe J hereby order and appoint to lye and remain in my Son John Ushers hands untill the s^d Hezekiah come of age, hee allowing the s^d Hezekiah five pounds per Cent per annum as interest for the same during all the s^d term. . . .

An Inventory or an or an acco ^{tt} of the Estate of m ^r Hezekiah Usher late of Boston dece ^d	s d
English goods Iron & other Merchandize	£4417:12:01
Salt. 25. ton per Estimation at .15 ^s per hh ^d	£ 75:00:00
Whaleboneat	£ 58:18:06

	<i>s</i>	<i>d</i>
Deer Skinsat	£	4:16:10
Furs & other Skins .at	£	82:11:09
Provisionsat	£	216:07:03
Wine & Brandy . . .at	£	33:07:00
Money & goldat	£	350:12:01
Household goods movables plate & wearing Appar ^{ll}		457:10:04
The dwelling house garden & Land to it and inward Warehouse w th Leantos & ^{ca} at the dock and his right of time in the Cellar under the Town house		700:00:00
The dwelling house that John Usher lives in & the Land to it and out- ward Warehouse by the Town dock		570:00:00
Ship Society . $\frac{1}{4}$. part	£	150:00:00
Ship Marah & Sarah $\frac{1}{2}$ part 270	£	270:00:00
Sloop Swan. $\frac{2}{3}$	£	110:00:00
Debts in this Land thought feazable	£	7421:00:00
Debts in Forreign parts thought feazable	£	135:13:10
Debts in this Country that are desperate	£	305:09:06
		<u>£15358:19:02</u>
Funerall Expences	£	231:18:08
Debts oweing by y ^e s ^d m ^r Usher	£	1325:17:06

There are severall Acco^{ts} that are not yet made up and some trivialls that are not brought in and some of the aboves^d Summes may prove either more or less, otherwise this is a true Injventory so far as J know

m^r Hezekiah Usher and m^{rs} mary Usher made Oath in Court: 3^d aug^o 1677. that this is a just & true Injventory of the Estate of the late m^r Hezekiah Usher dece^d to the best of their knowledge, and that when they know more they will discover the same. as attests Js^a Addington Cl^r

The case dragged along for a good many years. See Records of Court of Assistants, i. 137–39, 203; and record of case in the lower court in 1681/82, and appeals therefrom, in S. F. 2060.6, 8, 9.]

V^SHER ag^t V^SHER

John Vsher plaint. ag^t Hezekiah Vsher Defend^t in an action of reveiw of a case tried at the County Court held at Boston. October. 30th 1677. where the s^d John Vsher obtained judgem^t ag^t Hezekiah Vsher forfeiture of a bond of Seven thousand pounds, from which Judgem^t Hez: Vsher appealed perticularly for the non compliance with the articles wherein the s^d Hez: Vsher is obliged to pay one thousand pound Starling in England. . . . The Jury . . . found for the plaint. forfeiture of the bond Seven thousand pounds money and costs of Court: The Defend^t appealed from this Judgem^t unto the next Court of Assistants and put in Security for the prosecution thereof to Effect.

PALMER ag^t CASEY

Lisle Palmer plaint. ag^t John Casey Defend^t The plaint. was nonsuted in failure of process.

MEARES agt. LAWTON etc.

James Meares plaint. ag^t George Lawton & Joseph Cowell or either of them Defend^{ts} The plaint. was non suted upon non-appearance.

CLARKE agt. BYFEILD

Thomas Clarke plaint. ag^t Nathanael Byfeild Exec^r to the last will and testam^t of Cap^t Thomas Clarke dece^d Defend^t in an action of the case for refusing to pay unto the plaint. the Son of s^d Cap^t Clarke the Summe of one thousand pound due unto him by promiss upon marriage wth Hannah Fordum now wife of the plaint. . . . The Jury . . . found for the Defend^t costs of Court: The Jury being sent forth a. 2^d time upon this action and that which follows, they return^d the papers, informeing the Court that both parties came to them and declared they had agreed.

BYFEILD agt. CLARKE

Nathanael Byfeild Exec^r to the last Will & Testam^t of Cap^t Tho: Clarke dece^d plaint. ag^t Thomas Clarke Son of the s^d Cap^t Clarke Def^d in an action of the case for non payment of the Summe of Four hundred and thirty pounds in money due to the Estate of s^d Cap^t Clarke as by Booke &^a shall appeare: . . . The Jury . . . [532] found for the Defend^t costs of Court.

SMITH agt. MARSHALL

John Smith plaint. ag^t William Marshall Marrin^r Def^d in an action of the case for not delivering unto him to him a just and true acco^t and the produce of 12 bb^s of Mackarill, two bb^s of Cyder, one bb^r of Oyle and one bb^r of Onyons, all which bb^s and contents thereof were received by him the s^d Marshall as Master of the pinke Releife & consigned to him as may appeare by bill of loading under his hand. . . . The Jury . . . found for the plaintife, three pounds twelve Shillings six pence money & costs of Court.

SMITH ag^t HERRIS

John Smith or his lawfull Attourney plaint. ag^t Tho: Herris Defend^t in an action of the case for not paying the Summe of Four pound two Shillings six pence money due upon ball^a of acco^t beigining. 18. Feb^r 1677. . . . The Jury . . . found for the Defend^t costs of Court.

WHIGHTFOOTE ag^t ARNALL

Giles Whightfoote plaint. ag^t John Arnall Defend^t in an action of the case for not paying the Summe of Fifty Shillings in money due for two barrells of Molasses as shalbee made appeare by evidence. . . . The Jury . . . found for the plaint. Fifty Shillings in money and costs of Court twenty one Shilling eight pence.

Execucion issued: 31^o 8^{br} 78.

HERRIS ag^t SMITH

Thomas Herris plaint. ag^t John Smith Defend^t in an action of debt of Seventeen pounds in money due by booke wth damages. . . . The Jury . . . found for the Defend^t costs of Court

ARNALL ag^t FRENCH

Joseph Arnall junio^r or his Attourney plaint. ag^t William French Defend^t Jn^o Arnall appearing as Attourney for his Brother, having no power to prosecute any action of Slander was nonsuted, and costs granted the Defend^t

WALDRON ag^t HENDERSON

Js^a Waldron or his Attourney plaint. ag^t W^m Henderson Defend^t The plaint. was non suted in failure of process not Suing by way of reveiw.

PECK ag^t ARNALL

John Peck plaint. ag^t John Arnall Defend^t in an action of debt of Seven pound eight Shillings in money due by bill with damages: . . . The Jury . . . found for the plaint. Seven pounds eight Shillings money & costs of Court Sixteen Shillings ten pence.

Execution issued 31^o octob^r 78.

PEN ag^t ARNALL

W^m Pen plaint. ag^t Joseph Arnall Sen^r Def^t in an action of debt of Seven pounds due by bill wth damages: . . . [533] The Jury . . . found for the plaint. Seven pounds according to bill and costs of Court.

BARTHOLMEW ag^t COX

William Bartholomew plaint. ag^t John Cox Defend^t in an action of debt of Four pound Seventeen Shillings in money due by bill bearing date. 8th October. 1677. under the hand of said Cox, with due damages. . . . The Jury . . . found for the plaint. Four pound Seventeen Shillings money and costs of Court, granted Eighteen Shillings.

Execution issued pr^o Nov^r 1678.

ARNALL agt. AYER

John Arnall plaint. ag^t Peter Ayer Defend^t The plaint. withdrew his Action.

LEGG ag^t FLOOD

Samuel Legg plaint. ag^t James Flood Defend^t The plaint. was nonsuted upon non Appearance & costs granted the Defend^t ten Shillings six pence.

Execution issu^d 14:11^{mo} 78.

CHILDE ag^t PICKERING

Alwin Childe or his Attourney plaint. ag^t Sarah Pickering Defend^t in an action of debt of Seven pounds ten Shillings in money or thereabouts due by booke with damages: . . . The Jury . . . found for the plaint. Seven pounds and five pence money and costs of Court.

CHANDLER agt. LUN

John Chandler plaint. ag^t Thomas Lun Defend^t for not performing his ingagement to free him & the Town of Roxbury from further charge of Christopher Portugall who is returned to their great charge together with due damages: . . . The Jury . . . found for the plaint. five pounds Eight Shillings

NASH agt. GRIDLEY

James Nash Senio^r plaint. ag^t Joseph Gridley Defend^t in an Action of the case for not paying the Summe of one hundred pounds in money due by bond or Cov^t dat^d 24^o March. 1676. under the hand and Seale of S^d Gridley with damages: . . . The Jury . . . found for the plaint. Forfiture of the bond one hundred pounds money and costs of Court. On Request of the Defend^t & by mutuall Agreement of both partys The Court chancered this Forfiture to thirteen pounds eight Shillings money including the costs of Court.

JENKINS agt. VEERING

Samuel Jenkins plaint. ag^t John Veering Defend^t in an action of debt of Five pounds and ten pence in money due by bill bearing date. 22 Janur^o 1677 [534] under the hand of the s^d Vering with damages: . . . The Jury . . . found for the plaint. Five pounds & ten pence in money and costs of Court allow^d three & twenty Shillings 6^d

Execution issued 7th Nov^r 1678.

KENT etc. agt. SHEPPARDS Esta^{te}

William Kent and Richard Knight Attournies to Samuel Hawford plaint. ag^t the goods Estate or money which did belong unto the Estate of Andrew Sheppard dece^d whither in the hands of Richard Way & John Indicott Sureties for Martha Emery heire to the s^d Andrew Sheppard or wheresoever it may bee found Def^d^{ts} in an Action of the case for not deliuv^{ing} one quarter part of the Barque Thomas and Mary whereof the s^d Andrew Sheppard was Ma^r together with one quarter part of her loading of Logwood brought from Campechy being three and twenty tons. 19^c 3^{qr} 27^l also for not giving an Acco^t of one quarter part of the s^d Barques Earnings and the produce thereof all which do belong to s^d Hawford, therefore hee is damnified above one hundred pounds with other damages: . . . The Jury . . . found for the plaint^s one quarter of the Barque Tho: and Mary Sued for together wth one quarter part of the logwood Shipped on her and of her Earnings in her last Voyage, or that the Defend^{ts} shall render an Acco^t thereof upon Oath and pay the neete produce within one month or to pay Sixty pounds money and costs of Court.

[See Alford v. Endicott at the October session of 1676 (p. 726-35), where some of the documents concerning the logwood in question are printed, and Hawford v. Scotto and Endicott, at the July session, 1677, p. 816, below.]

THAYER agt. BOUDIDGE

Richard Thayer plaint. ag^t John Boudidge According to Attachm^t The Action being called & the Attachm^t & one Evidence being read (the plaint. not having more in areadiness) was committed to the Jury and are on file: The Jury . . . found for the Def^{dt} costs of Court allow^d twelve Shillings Six pence.

Execution issued 17^o Janur^o 1678.

HILL agt. EMMONS

Thomas Hill plaint. ag^t Obadiah Emmons Defend^t in an action of debt of Fourteen pounds ten Shillings due to the s^d Hill in specie according to bill bearing date. 18th of April 1678. under the hand of the s^d Emmons with other damages. . . . The Jury . . . found for the plaint. Fourten pounds ten Shillings according to bill and costs of Court allow^d twenty four Shillings Eight pence.

Execution issued 14^o Nov^r 1678.

PORTER ag^t APPLETON

Abel Porter junio^r plaint. ag^t John Appleton Defend^t The plaint. withdrew his Action.

RAWSON agt. PLAYSTE'D

William Rawson plaint. ag^t William Playsteed Def^{dt} in an action of the case for the Forfiture of a bond of twenty four pound not performing the condition thereof which was to pay twelve pounds in money &c. . . . The Jury . . . found for the plaint. Forfiture of the bond twenty four pounds money and costs of Court: W^m Rawson afterwards came into Court and acknowledged the [535] Receipt of twelve pounds money with his charges in full Satisfaction of this Judgem^t

RAWSON agt. BROUGHTON

William Rawson plaint. ag^t John Broughton in an action of the case for not paying the Summe of Eight pound in money due by bill.

dat^d 16th of April. 1678. under the hand of said Broughton with damages: . . . The Jury . . . found for the plaint. Eight pounds money and costs of Court allowed thirty four Shillings ten pence.

Execution issued 6^o Nov^r 1678.

RAWSON agt. BROUGHTON

William Rawson plaint. ag^t John Broughton Def^{dt} in an action of the case for not paying the Summe of twenty four pounds in money due as the forfeiture of a bond under his hand & Seale. dat^d 20th January. 1676. with damages. . . . The Jury . . . found for the plaint. forfeiture of the bond twenty four pounds money & costs of Court: The Court upon the acknowledgem^t of the plaint. what was remaining due, chancered this Forfiture to Six pounds money and costs of Court allow^d thirty four Shillings ten pence.

Execution issued 5^o Nov^r 1678.

PAIGE ag^t SMITH

Nicholas Paige plaint. ag^t John Smith Defend^t The plaint. was nonsut^d upon non Appearance.

HOLMAN to ALLEINE

John Holman personally appearing in Court confes^t judgem^t ag^t his Estate and person unto Henry Alleine Merch^t for Fifteen pounds Seven Shillings & Seven pence to bee paid in money in full of a bill on file.

Freemen

Tho: Holman, James Tucker, Ephraim Tucker & Manassah Tucker all of Milton tooke the Oath of Freedom of this Colony

Order about m^r MIHEL'S Arrears

Jt being represent^d that m^r Tho: Mihel doth withhold the house ordeined for the Ministry of Milton upon the Acco^t of some dues yet behinde from the Town, Jt's ordered that the Select men do forthwth pass an order for the paym^t of what Arreares are due unto m^r Mihel.

CLARKE his Renunciation of Executorship

Thomas Clarke being put upon it by the Court to declare his acceptance or refusall of the trust put upon him by his Father Cap^t Tho: Clarke dece^d as Executo^r of his Will hee declared hee did renounce his s^d Executorship.

Order about W^m ROGERS his Childe

It's Ordered that the Childe of William Rogers late of Boston Marrin^r dece^d (his parents being both dead, and also his Aunt Hallit since dead, unto whose care hee was committed by Authority) bee deliurd unto m^r W^m Rawson, who is ordered to take the present care of and make due provision for the Childe untill the Court take further order.

TOLEMAN Fin^d 10^s

John Toleman Constable of Dorchester complain^d of for neglect of his duty in not prosecuting of a hue-en-cry, obtained by John Chubbuck of Hingham, but letting it fall in his hands, Sentenc^d to pay ten Shillings money fine to the County [536]

ATHERTON &^a Fin^d 3^s 4^d apeice

Watching Atherton, Peter Talbut and John Smith all of Dorchester presented & convict by their own confession in Court of breach of the peace in fighting and quarrelling &c. Sentenc^d to pay ten groates apeice in money fine to the County charge of Witnesses and fees of Court standing committ^d &c.

ADDAMS Fin^d 10^s

Edw^d Addams of Medfeild not attending to Serve upon the Jury of tryals according to Summons is Sentenc^d to pay ten Shillings in money fine to the County.

Order to the Tr^r ab^t HOWLITTS money in his hands.

m^r Charles Lidgett appearing in Court and making claim to the Estate of John Howlitt dece^d in behalfe of Elias Russell and John Simons of Bilbao Merch^{ts} of a debt of about Eighty pounds due to the s^d persons. It's ordered that m^r Lidgett getting his power trans-

lated & Recorded the Treasuro^r is to pay him w^t monys were deposit^d in his hands by order of Court towards the paym^t of said debts, hee giving a discharge for the same.

vide m^r Lidgetts discharge p. 567.

REDDING her Guardian

Rebecca Redding made choise of her mother Elinor Redding Widdow to bee her Guardian relating to a Legacy of £.25. given unto her in England by m^r Penoyer which Shee accepted and the Court approved, Shee giving bond according to law.

ATHERTON etc. Fin^d 10^s ap^s

Consid^r Atherton and Ebenezer Williams of Dorchester presented and convict by theire own confession in Court of entring into the house of Nicholas Bolten and taking away Cider without his knowledge, Sentenc^d to pay ten Shillings apeice in money fine to the County & fees of Court standing committ^d &^a.

BURCH Fin^d 10^s

Joseph Burch of Dorchester present^d and convict by his own confession in Court of taking the name of God in vain, by Swearing, Sentenced to pay ten Shillings money fine to the County and fees of Court standing committ^d etc.

GEORGE Fin^d £.5.

Elizabeth George of Dorchester Widdow convict by her own confession in Court of Selling Strong drinke without licence, Sentenc^d to pay five pounds in money fine to the County according to law and fees of Court standing committ^d etc.

LOWEL Fin^d 2/6

John Lowel Sen^r of Boston present^d for Jdleness & tipling owned that hee had not followed his calling so much as formerly by reason of his burstness,¹ and that hee had too much frequented places of tipling, Sentenced to pay two Shillings six pence in money fine to the County according to law for tipling and fees of Court standing committ^d &^a.

¹ Rupture, hernia.

BROOKING Fin^d 5^s

John Brooking convict^d by his own confession in Court of entertaining persons drinking in his house at an unseasonable time upon a Saturday night. Sentenc^d to pay five Shillings in money fine to the County and fees of Court standing committ^d &^a.

MARTYN Fin^d 5^l

Mihel Martin convict by his own confession in Court of Selling drinke without licence. Sentenced to pay five pound in money fine to the County according to law and fees of Court [537]

KEYNE Fin^d £.5.

Arthur Keyne convict by his own confession in Court of Selling strong drinke without licence, Sentenced to pay five pounds money fine to the County according to law and fees of Court.

ROBBINSON Fin^d 5^s

Nathanael Robinson convict by his own confession in Court of entertaining persons drinking in his house on a Sabbath Evening before the day light was gone, Sentenced to pay five Shillings money fine to the County and fees of Court standing committ^d &^a

Boston under a penalty

The Town highway in Boston leading from the dock to the Mill being presented as insufficient, many times not passible for Carts: The Court orders that it bee repaired between this and the next Court of this County under the penalty of Five pound to bee forfeit^d by the Town.

CARTER Sent^a

James Carter convict by his own acknowledgem^t in Court of running away from his ma^r m^r Josiah Flint & being also convicted of stealing plate and money from his s^d Ma^r amounting to Six and twenty Shillings, is Sentenced to pay unto his s^d Ma^r Flint three pounds Eighteen Shillings money being treble damages according to

law for his theft, and for what his ma^r p^d for him and disburstm^{ts} upon him for Cloathing and in pursuite of him with his prison charges at Chambridge to pay unto the s^d m^r Flint £.6:11:0: money, in the whole ten pound nine Shillings in money, and in case hee make not payment accordingly m^r Flint paying his fees of prison and Court is impoured to dispose of him either in the Country or in any other of his Majesties Dominions, s^d Carter standing committed untill this Sentence bee fulfilled.

HITT her Estate Setled

Jt's Ordered that the Estate left by Anne Hitt Widdow late of Boston dece^d amounting by Jnventory to three hundred Forty nine pounds Six Shillings six pence (there being five Children) bee divided into Six equall parts, two whereof are assigned unto the eldest Son to bee p^d him when of age, and the other four parts are assigned unto each of the other four Children one to bee p^d them as they come of age, and in case any of the s^d Children dye before they attain theire respective ages that the portion of him or her so dying bee equally divided among the Survivo^{rs}

LANGLE Admonish't

Stephen Langle of Milton convict in Court by his own confession of voting in publique Town meetings it being objected hee is not qualified according to law, was Admonished.

Abatem^t of SAVAGE her fine

Jn Answer to the petition of Majo^r Tho: Savage in behalfe of his daughter Dyonisia The Court remits five pound of the fine of £.15. imposed on her by the last Court of this County.

[See above, p. 939.]

SMITH Fin^d £.5.

John Smith convict^d by his own confession in Court of keeping a house for publique entertainm^t and [538] Selling drinke without licence, Sentenced to pay five pounds in money fine to the County according to law & fees of Court.

DANIEL his Licence

John Daniel of Milton is licensed to keepe a house of publike entertainm^t to retaile beere Cider and Wine for the yeare insuing and himselfe in £.10: and Henry Crane & Robert Badcock Sureties in £.5. apeice became bound to the T^r for his observance of the laws.

GARDNERS Licence

Peter Gardner of Roxbury is licensed to retaile Cider untill April next.

The Court Adjourned to the. 5th of Decemb^r next at three Afternoon.

5^o Decemb^r 1678.@

The Court met by Adjournm^t

COOPER her Guardian

Timothy Pratt is granted Guardian to Elizabeth Cooper daughter of Josiah Cooper late of Boston dece^d hee giving bond according to law.

CURTICE his Estate proportion^d

It's Ordered that John Curtice Adm^r to the Estate of his late Brother Ephraim Curtice dece^d do pay unto such of the Credito^{rs} to that Estate as have entred their claims with the Committee appoint^d by the Court for that end nine Shillings in the pound And in case of refusall the Adm^r is liable to the Sute of each of the s^d Credito^{rs} to that value, and if any further Estate hereafter appeare it is to bee proportioned in the same manner.

Committee about MAVERICK his Estate

m^r Anthony Stoddard is desired and appointed to join wth Major Tho: Savage (instead of Cap^t David dece^d) as a Committee relating to the Estate of Samuel Maverick dece^d and the Adm^{rs} to that Estate are ordered to make an issue of it at the next Court of this County.

STONES to LUND

Joseph Stones personally appeared before John Leverett Esq^r Gov^r and Simon Bradstreet Esq^r Assist. Dep^t Gov^r 11th x^{br} 1678.

and confessed judgem^t ag^t his Estate and person unto Thomas Lund for four pounds four Shillings to bee p^d in money.

attests. Js^a Addington Cler.

HERRIS to VSHER

Thomas Herris personally Appearing before Edw^d Tyng Esq^r and Joseph Dudley Esq^r Assist^s 3^o Ianuary 1678. confes't Judgem^t against his Estate and person unto Hezekiah Vsher for the Summe of Forty pounds four Shillings ten pence to bee paid in money in full of all Acco^{ts}

attest^s Js^a Addington Cl^r.

Execucion issued 4^o Janur^o 78.

HERRIS to SHEAFE

Thomas Herris at the same time and before the same Magistrates confessed judgem^t ag^t his Estate & person unto Sampson Sheafe for the Summe of One hundred twenty three pounds four Shillings and Eleven pence to bee paid in money in full of all Acco^{ts}

attests. Js^a Addington Cl^r.

Execution issued 4^o Janur^o 1678.

HERRIS to SHRIMPTON

Thomas Herris at the same time and before the same Magistrates confessed judgem^t ag^t his Estate and person unto Samuel Shrimpton for the Summe of twelve pounds nineteen Shillings six pence to bee p^d in money in full of all Acco^{ts}

attests. Js^a Addington Cl^r.

Execution issued 30. Jan^{ry}. 1678. [539]

HERRIS to HUTCHINSON

Thomas Herris personally appeared before Edw^d Tyng and Joseph Dudley Esq^{rs} Assist^s 3^o Ianuary. 1678. and confessed judgem^t ag^t his Estate and person unto Eliakim Hutchinson for the Summe of Six pounds ten Shillings to bee p^d in money in full of all Acco^{ts}

attests. Js^a Addington Cler

Execution issued 4^o Ianur^o 1678. [540]

The Names of such persons who tooke the Oath of Allegiance¹ in Boston: 11th Novemb^r 1678. Administred by the Hono^r^{b^{le}} John Leverett Esq^r Governo^r

m ^r James Allen	W ^m Spowell jun ^r	Nath ^a Barnes
m ^r Sam: Willard	Nehem ^h Peirce	Jn ^o Bateman
m ^r Edw ^d Raynsford	Tho: Sanford	Jn ^o Maryon Sen ^r
m ^r James Shermon	Sam: Peacock	Rob ^t Mason jun ^r
m ^r John Miles	Sam: Bridge	Tho: Fuller
m ^r Jn ^o Joyliffe	Tho: Warren	Jn ^o Dindsdall
m ^r Elisha Hutchinson	Sam: Jenkins	Joseph Knight
L ^t Dan ^{ll} Turill	Tho: Smith	W ^m Horne
Cap ^t James Oliver	Simon Roberts	Sam: Maryon
Cap ^t Jn ^o Hull	Tho: Baker jun ^r	W ^m Rawson
L ^t Nath ^a Reynolds	obadiah Read	Moses Peirce
L ^t Matthew Bernard	Jn ^o Moore	Peter Codnar
L ^t Pen Townsend	L ^t Jn ^o Walley	Joshua Winsor
L ^t Theoph: Frarey	Cap ^t W ^m Gerrish	Preserv ^d Collacot
Ensigne Eph: Savage	L ^t Jacob Eliott	Tho: Jinkins
Ensigne Eph: Turnor	m ^r Tho: Kellond	Arthur Fickling
Ensigne Ri: Wodde	L ^t Ri: Way	Sam: Jnggs
Ensigne Jn ^o Wing	John Conney	Rob ^t Sanderson
Ensigne Hope Foster	Christopher Clarke	Jn ^o Baker
Jsaac Addington	Jonathan Balston	Benoni Collier
Jn ^o Hayward	Nath ^a Greenwood	Jn ^o Maryion jun ^r
Nath ^a Byfeild	Elnath ^a Chauncey	Sam: Willet
Nath ^a Williams	Cap ^t W ^m Wright	Jn ^o Forster
Jonath. Bridgham	W ^m Coleman	Joseph Blake
Henry Mountfort	W ^m Needham	Math: Atkins
W ^m Greenough	W ^m Pope	Joshua Matson
Jabesh Salter	Ja: Whetcomb	James Green
Marsh ^{ll} Jo: Webb	Nath ^a Oliver	Steven Feilder
Return Waite	Edw: Willys	W ^m Stratton
John Search	John Harrison	Jn ^o Hueson
Edw: Goodyn	W ^m English	Nath ^a Baker
Ri: Crispe	Hudson Leverett	Joshua Rice
Jn ^o Temple	Benj ⁿ Davis	Matth: Browne
Jn ^o Winslow	Tho: Watkins	Ebenez: Davenport
Jn ^o White	Sam: Peirce	Sam: Brabston
Nath ^a Blague	W ^m Griggs	W ^m Porter
Henry Tite	Tim ^o Pratt Sen ^r	Jn ^o Fairfeild
Robert Williams	Jn ^o Holman	Jn ^o Orris
Ri: Collacot	Jn ^o King	Tho: Bill
Jn ^o Veering	Savel Simpson	Nath ^a Robinson
Robert Butcher	Jn ^o Wilkins	Jn ^o Indicott
Francis Morse	W ^m Robbins	Jn ^o Roberts
Edw ^d Davis	Joseph Saxton	Henry Messenger

¹ See Records of Massachusetts Bay, v. 191-194.

Jn^o Dafforne
 Tho: Wheeler
 Edm: Ranger
 James Inglish
 Giles Dyer
 Jn^o Skate
 Dan^{ll} Fairfield
 Jn^o Barbur
 Asaph Elliott
 Peter Odlin
 Sam: Holman
 Jn^o Greenleafe
 Jsaiah Tay
 Ri: Narramore
 Gilbert Cole
 Joseph Gallop
 Adam Dinsdall
 Tho: Barbur
 Joseph Swett
 Jonathⁿ Howard
 Edw: Cowell
 David Mattox
 Tho: Barnes
 Jon^a Addams
 Jn^o Butler
 Moses Collier
 Sam: Gallop
 Jn^o Cowell
 Jn^o Cleesby
 Nath^a Addams Sen^r
 James Marshall
 Robert Addams
 Jon^a Wales
 Henry Harris
 Jn^o Jones
 Sam: Snow
 Tho: Hieborn
 W^m Thwing
 m^r Simon Lynde
 Silvan: Davis
 John Young
 Arthur Mason
 James Dennis
 Tho: Sheepcot
 Nic^o Hoile
 Jn^o Osop
 Jn^o Roberts
 Charles Lane
 Jn^o Matson

Jn^o Hunt
 James Harris
 Phillip Curtice
 Tho: Smith
 Jn^o Ruggles
 George Purkis
 Matth: Abdee
 Tho: Davis
 Nath^a Castle
 W^m Ockinton
 Rob^t Clarke
 Jn^o Pell
 Caleb Rawlins
 Jn^o Bull
 Tho: Rootes
 Tho: Griffen
 Sam: Turell
 Jn^o Winchcomb
 Jn^o Needham
 Jn^o Smith
 Nic^o Dolton
 W^m Norton
 Steven Davis
 Joseph Brisco
 Tho: Atkins
 Eliez^r Holyoke
 Ri: Williams
 David Raynsford
 Joseph Peirce
 Henry Flood
 Jn^o Raynsford
 Sam: East
 Rob^t Orchard
 Geo: Waldron
 Mungo Crawford
 Joseph Farnham
 Tho: Baker Sen^r
 Matth: Collins
 Jn^o Skinner
 Jn^o Foy
 Jn^o Bonner
 Edw. Allyn
 Geo: Burrell
 Joseph Turne [541]
 Js^a Wodde
 Tho: East
 Jn^o Alcock
 Rob^t Cooke
 W^m Wooster

W^m Tower
 Ri: Heath
 Rob^t Emmons
 Benjⁿ Williams
 Geo: Manning
 Caleb Ray
 George Pike
 Jn^o Barnard
 W^m Sumner
 Sam: Kelley
 Jn^o Leech
 James Franklyn
 Benjⁿ Dell
 Edw: Pegge
 Jn^o Feild
 Jn^o Sweet
 Rob^t Howard
 Jn^o Fernside
 Henry Kirbey
 Robert Carver
 Nich^o How
 Tho: Baker
 Rob^t Snell
 Jn^o Smith
 Benjⁿ Emmons
 Edw: Hill
 Joseph Preist
 Jn^o White
 W^m Middleton
 Matthias Smith
 Jn^o Harwood
 Abram. Addams
 Dan^{ll} Travis
 Laurence Waters
 Jn^o Wakefeild
 Jn^o Nicholson
 W^m Loverain
 Sam^{ll} Rider
 Edw^d Antill
 Jn^o Baker
 James Brading
 W^m Andrews
 Joseph Wakefeild
 Jn^o Williams
 Benjⁿ Brisco
 Charles Hopkins
 Michael Shute
 Sam: Homes
 W^m Payne

W ^m Cleesbey	Ri: Kates	Tho: Barney
Jn ^o Capen	Gindstone Boud:	Rob ^t Bronsdon
Tho: Downe	W ^m Wade	W ^m Harrison
Benj ⁿ Dunning	Jn ^o Dowgin	Moses Bradford
Jn ^o Ballentine	Tho: Barnat	Joseph Proutt
Tho: Staplefort	Sam: Paine	Edm ^d Gates
Cornelius White	David Wilson	Ephraim Manning
Joseph Belknap Sen ^r	Geo: Briggs	Magnis White
Edw: Everill	Simon Daniel	W ^m Obinson
Abra. Rye	Joseph Dell	Tho: Cooper
Tho: Harris	Rob ^t Sandall	Ri: Cheever
Jn ^o Wilkee	Jn ^o Holland	Jerm: Gibson
W ^m Parsons	Geo: Nowell	Tho: Blythe jun ^r
Ri: Tout	Ri: Peirce	Dennis Mackdaniel
James Pennyma ⁿ	Henry Champne	Joseph Grant
Edw ^d Smith	Bozoon Allen	Josia Belcher
Jn ^o Haynes	Tho: Eldridge	Ri: Dence
Moses Patrick	Tim ^o Thorntun	Jn ^o Ayer
Jn ^o Clough	Nath ^a Addams jun ^r	Laurence Bowles
Joseph Burgis	Tho: Powell	Jn ^o Dosset
Sam: Tiley	Phillip Stratton	Tho: Herris
Sam: Lynde	Tho: Paddey	W ^m Smith
Tho: Tiley	Jon ^a Farnum	Laurence White
Josiah Abbot	W ^m Lane	Tho: Hern
Geo: Hisket	Nath ^a Lynde	Henry Harwood
Jn ^o Laurence	Fearenot Shaw	James Johnson
David Cummins	James White	W ^m Pasmore
Jsaac White	Joseph Phillips	Jn ^o Starr
Jn ^o Arthur	Rob ^t Edmonds	Robert Trevey
George Eborne	Jn ^o Flood	Joseph Gannet
Tho: Gorst	Tho: Kemble	Henry Jngraham
Josia Baker	Walter Cohoone	John Gay
Jn ^o Ricks	W ^m Poole	Tho: Plembley
Sam ^{ll} Crab	Tho: Norton	James Webster
W ^m Snell	Abram. Blushe	Henry Reynolds
Francis Hudson	Rob ^t Sedgewick	David Landon
W ^m Eglan	Benj ⁿ Breames	Rob ^t Mason Sen ^r
Joseph Parsons	Nic ^o Phillips	Edw ^d Mortimore
Jn ^o Messinger	Jn ^o Johnson	Tho: Clarke
Jn ^o Davis	W ^m Baker	Sam: Thaxton
Joshua Hews	Jn ^o Baker	Jn ^o Jarmyn
Ri: Coby	Henry Woolfe	Abram. Letherbridge
Rob ^t Lash	Daniel Clough	Henry Pease
Jn ^o Courser	David Thomas	Sam: Mattock
W ^m Everden	Ambrose Due	Tho: Sexton Sen ^r
W ^m Wilkinson	Jn ^o Cunniball	Edw: Paige jun ^r
David Addams	Jn ^o Playsteed	W ^m Waters Sen ^r
Dan ^{ll} Wilden	Henry Alleine	Archubal Morrison
Jn ^o Marsh	W ^m Huffe	Rob ^t Wright Sen ^r

Sam: Bedwell jun ^r	Sam ^{ll} Paine	Elisha Odlin
Jn ^o Farnum jun ^r	Sam ^{ll} Burnell	Tho: Dewer
Peter Woodhouse	Jn ^o Cotta	Dan ^{ll} Quinsey
Isaac Maryon	Marke Parsons	James Tompson
Jacob Fernside	W ^m Whiteway	Jn ^o Woodde
Peircie Clarke	Caleb Stratton	David Copp
Sam: Bedwell Sen ^r	Sam ^{ll} Burrell	Vic ^o Wilmot
Rich ^d Tuell	Jarvis Ballard	Jonath ⁿ Orris
Barth ^o Stratton	Sam ^{ll} Norden	Joseph Shaw
David Waterhouse	Sam ^{ll} Emmons	Jn ^o Andrews
Edw: Blanchard	Jn ^o Hunlock	Jn ^o Ratcliffe
Joseph Homes jun ^r	Jn ^o Prescott	Jn ^o Andrews
Tho: Alderton	W ^m Drue	Jn ^o Lewis
Ri: Burton	Nath ^a Peirce	Charles Fuller
Jn ^o Jinkins	Jn ^o Maverick	W ^m Browne
Joseph Davis	Nich ^o Stone	Jn ^o Goffe
Jn ^o Howen	Jn ^o Augur	Benj ⁿ Dyer
Rob ^t Shelston	Andrew Hall	James Ellice
Tho: Clout	W ^m Guard	Henry Emes
Jon ^a Barker	Jn ^o Glover	Ri: Edwards
Jn ^o Viall jun ^r	Jn ^o Place	Ri: Talley
Peter Townsend	Jn ^o Comer	Jn ^o Mills
Tho: Ashley	Gaudy James	Tho: Cooper
Sam: Daggan	Sam ^{ll} Sendall	Rowland Storey
Jn ^o Ward	Jn ^o Dakin	W ^m Maddison
Dan ^{ll} Turill jun ^r	Rob ^t Wittall	Charles Buckner
Steven Butler Sen ^r	Daniel White	Jn ^o Pollard
Joseph Bateman	Francis Dowse	Josias Stone
W ^m Procter	W ^m Hawkins	Jn ^o Tomlin
Jn ^o White	Jn ^o Parmiter	Jn ^o Peirce
Tho: Emmons	Arthur Keyn	Jn ^o Childe
Joseph Eldridge	Robert Earle	Mihel Martyn
Amos Vertee	Tho: Hunt	Jn ^o Dawes
Sam: Hunt [542]	Geo: Peirson	Lucias Peirce
Jn ^o Jarvis	Abel Porter jun ^r	Henry Tompson
Jn ^o Griffin	Andrew Cload	Tho Everenden
Arthur Smith	Roger Risdan	Ri: Travis
Rich ^d Barnard	Ri: Preist	Ri: Loft
W ^m Penney	Robert Jones	Clement Gross
Ri: Davis	Jn ^o Bolt	Ri: Jinke
Jn ^o Viall Sen ^r	Jn ^o Wayt	Jn ^o Scarlett
Jn ^o Avis	James Hudson	James Balston
Jn ^o Nash	W ^m Carpenter	W ^m Pitts
W ^m Turner	Jn ^o Harwood	W ^m Hunt
Joseph How	Jacob Fowle	Ephraim Searle
Jn ^o Carthew	Tho: Forty	Erasmus Stevens
Sam ^{ll} Warren	Jn ^o Dyer	Jn ^o Whaley
Jn ^o Peirce	Isaac Cousens	Jn ^o Ross
Henry Addams	Joseph Rock	Simon Rogers

Josia Cobham	Arthur Mosier	Nathan ¹¹ Castle
Edw: Ellys	Jn ^o Matthews	Hen: Butterfeild
Peter Warren	Sampso ⁿ Stoddard	Leonard Dowden
Anth ^o Greshon	Geo: Henley	Benj ⁿ Alford
James Gray	Simeon Stoddard	Ri: Middlecott
Jn ^o Turner	Jn ^o Woodmansey	Jeremiah Conoway
Jn ^o Foster	W ^m Rouz	Michal Willys
Tho: Bingley	Dan ¹¹ Turill jun ^r	Benj ⁿ Negus Sen ^r
W ^m Hobbey	Jn ^o Farnun Sen ^r	Obadiah Gill
Jn ^o Tucker	Roger Dobleday	Ch ^a Crosthwayt
Joseph Weeden	Tho: Hill	Jn ^o Inglesby jun ^r
Henry Deering	Jn ^o Pease	Jeremiah Sabyn
Eneas Salter	Rob ^t Winsor	Tho: Narramore
Jn ^o Williams	Rob ^t Cannon	Christoph ^r Crow
Jn ^o Leech	W ^m Gibson	Jn ^o Inglesby Sen ^r
W ^m Gilbert	Tho: Hartley	Edm ^d Mountfort
Tho: Waggit	W ^m Lavis	Jn ^o Stanbrige
Jn ^o Atwood	Abram. Smith	Alexand ^r Baker
Rob ^t Dale	Isaac Walker	James Robinson
Joseph Farrow	Tho: Bemis	Christoph ^r Holland
Phillip Bullis	Edw: Creeke	Jngeman Halgeson
Rich ^d Hall	David Walsbey	Alexand ^r Simpson
Jn ^o Brooking	Nathan ¹¹ Badcock	Benj ⁿ Negus jun ^r
Sam ¹¹ Walker	Zach: Davis	W ^m Blackwell
Jn ^o Parrum	Nich ^o Salisbury	Joshua Cobham
Benj ⁿ Smith	Clement Hamlin	Andrew Augur
Jacob Mason	Henry Tarleton	Ebenez ^r Peirce
Ri: George	James Townsend	Lophelin Glowee
Ri: Hunt	Theodore Atkinson	Henry Bartholmew
Anthony Mudd	Alexand ^r Bogle	Geo: Tompson
W ^m Phillips	Nathan ¹¹ Broughton	Jn ^o Walker
Thomas Cooke	Thaddeus Mackarty	Tho: Platts [543]
Ri: West	Sam ¹¹ Mattock jun ^r	Joseph Tapping
Edw ^d Budd	Ri: Harrison	Digory Sergeant
Jn ^o Amey Sen ^r	Simeon Messenger	Tho: Cheever
Jn ^o Amey jun ^r	Jn ^o Phipps	James Butler
Edw ^d Dorr	Joseph Greenleaf	Jn ^o Hayward
Tho: Beard	Barth ^o Three Needle	Benj ⁿ Bale
Jn ^o Willys	Obadia Wakefeild	Geo: Ellistone
W ^m Tailer	Tho: Stanbury	Jn ^o Tuckerman S ^r
Jn ^o Vsher	Jn ^o Brooking jun ^r	Tho: Bolton
W ^m Kirby	Joseph Belknap jun ^r	Tho: Gross
Jn ^o Lowell	Hez: Henchman	Rich ^d Knight
Benj ⁿ Wardell	Jabesh Negus	Tho: Hunt
Charles Abbot	Samuel Phillips	Henry Wright
Ephraim Hall	Joseph Cooke	W ^m Dawes
Jn ^o Russell	Jonath: Raynsford	Isaac Gross
W ^m Lytherland	James Andrews	Jn ^o Glover
Jn ^o Hill	Joseph Williams	Sam: Plummer

Edw: Gold	Jn° Jinnings	Tho: Harris
Ralph Tuffe	Sam: Minot	Gilbert Evans
Joshua Nash	Ri: Bray	Rob ^t Smith
Andrew Neale	James Maxwell	Jonathan Jackson
Tho: Chard	W ^m Phelps	Ebenez ^r Inglesby
Joseph Browning	Benj ⁿ Smith	Moses Richardson
W ^m Bartholmew	Henry Ellice	Nathan ^{ll} Henchman
Tim° Pratt jun ^r	Nic° Treeby	Jacob Wilkinson
Phillip Mullen	W ^m Kent	Jn° Mackemoryn
Rich ^d Doling	Peter Brackett	Sam: Jackson
James Hawkins	Tho: Elliott	Michal Holland
Nich° Cole	Tho: Wright	W ^m Hamilton
W ^m Smith	Peter Widger	Jn° Richardson
Henry Denning	Sam: Stocker	Sam: Bennet
Roger Judd	Ri: Coy	Jeremia Mather
Ri: Gross	Roger Burgis	Sampson Dewer
Jn° Bullard	Experience Willys	George Monke
Nich° Crarey	Nich° White	James Dowell
Ri: Pugsley	W ^m Lamb	Jn° Marshall Sen ^r
Regnal Odal	Jn° Lux	Jeremiah Childe
Jn° Kneeland	Francis East	Jn° Hurd Sen ^r
Moses Cobham	Jn° Mulberry	Tho: Bend
Ri: Henchman	Tho: Forbush	Tho: Skinner
Tho: Peck Sen ^r	Edw ^d Drinker	Elias Hobart
W ^m Hore	Jn° Belcher	m ^r Ri: Wharton
W ^m Wilcot	Sam: Bozworth	Laurence Willys
Edw ^d Belcher	Joseph Swett	Geo: Robinson
Jn° Bradish	Phillip Squire	

The Name of the male persons in Boston who tooke the oath of Allegiance Administred by the Worpp^{ll} Simon Bradstreet Esq^r Dep^t Gov^r 21° April: 1679. @

In° Brandon	In° Allen	Tho: Rumsee
W ^m Gilbert	Iames Hill	Solom: Raynsford
Iames Balston ju ^r	W ^m Holowell	Ioseph Haven
Satisfact ⁿ Belch ^r	Benj ⁿ Holowell	Iohn Ireland
Sam ^{ll} Pewell	Geo: Camble	Sam: Davis
Zibeon Lytherland	Simon Rogers	Will ^m Perwitch
Ioseph warren	Sam: Davis I ^r	Iohn Verren
Isaac Pepper	Tho: Barrat	Henry Stevens
Iohn Balston	Sam: Iohnson	Henry Rust
Ioseph Bridgham	Alexand ^r Panton	Tho: Kelton
Henry Lunt	Edw: Fairbanke	Sam ^{ll} Marshall
Iohn pratt	W ^m Thornton	Tim° Armitage
Hugh price	Henry Duen	Iohn Baley
Iohn powell	Bryan Morphey	Iohn Marsh
Iames meers	Edw: Milton	Gamaliel Rogers

Benj ⁿ Tainter	W ^m White	W ^m Partman
Edw: Paige	Hump ^r Liscombe [544]	William Phillips
Tho: Steele	m ^r Paul Dudley	Io ⁿ Robison
John Bennet	John Casey	Edm ^d Beach
Moses Paine Sen ^r	John Turnor	John Day
John Odlin	Benj ⁿ Savage	Steven Sergeant
Sam: Clarke	W ^m Green	Manasah Beck
Abel Porter Sen ^r	Sam ^{ll} Spead	John Gill
Peter Wyer	John Blackston	Edw: Thwyng
Robert Davis	John Rix	W ^m Kileup
John Waite	W ^m Batt	Adam Dunkin
Abia: Bateman	Tho: Rider	Edw: Evens
John Salman	W ^m Harris	Ambrose Hunnew ^{ll}
Iames Boone	Ant ^o Checkley	William Tomlin
Tho: Robinson	John Bodman	John Feild
John Ayers	Iames Addams	W ^m Viccars
In ^o Morris	Rob ^t Lookeley	Geo: Edwards
Peter King	Ezekiel Levet	Tho: Edwards
Sam ^{ll} Smyth	W ^m Dinsdall	Robert Moore
Ri: Gridley	Eliphalet Blague	Ant ^o Heywood
Pe: Sergeant	Edw: Hounsell	Rob ^t Cumbey
Dan ^{ll} Royce	Andrew Dolberry	Iames Halsey
D ^r Elisha Cooke	John White	Experi: Orris
m ^r Ezekiel Cheever	Sam: Greenwood	Tho: Turner
John Man	Charles Labarry	In ^o Clap
Ieremiah Dummer	Rich ^d Seely	Iames Updicke
Sam ^{ll} phillips	Ant ^o Gresion	W ^m Mumford
Sam: Mason	W ^m Downe	W ^m Parrum
Ioseph Hurd	Pheasant Eastwick	Cap ^t Dan ^{ll} Henchman
Robert Walker	Tho: Iohnson	Archubal Forrest
Moses Paine jun ^r	W ^m Dempsey	David Falkner
Charles perry	John Chapman	Robert Howard
L ^t Hugh Drury	John Sparrey	David Jefferys
Peter Till	John Keen Sen ^r	Ierem: Fitch
Deacon Henry Allen	Peter Chock	Iames Browne
Iames Landon	Sampson Sheafe	John Iones
Barth ^o Sutton	Tho: Buttolph	W ^m Penney
John Peck	John Sharpe	Edw: Crocker
Sam: Haugh	Edw: Lilley	Rich ^d Parton
Sam: Lewis	W ^m Cloe	Ralph Carter
Ioseph Gridley	Edw: Camer	Ioseph Simmons
Hercules Courser	John Wilmot	David Basset
Tho: Smith	John Holbrooke	Tho: Masser
Ri: Patteshall	In ^o Bennet marin ^r	John Horton
In ^o Champion	Ioseph Smith	In ^o Ramsey
Ant ^o Stoddard jun ^r	Rich ^d Harden	In ^o Creesy
Ebenez ^r Savage	Tho: Wells	In ^o Butler
Henry messeng ^r S ^r	Ioseph Wing	Tho: Higgison
Rich ^d Buckley	John Sevey	Sam: Ruggles

In^o Boden
 Ioseph Fisher
 In^o Keen jun^r

Rich^d Smith
 Iohn Hopkins
 Iohn Rolston

Geo: Orris
 Ionas Clarke
 Tho: Thacher [546]¹

The Names of the Male persons, living at Muddy River (within the Township of Boston) who have taken the oath of Allegiance.

Edw^d Devotion
 Iohn Devotion
 Rob^t Grandy
 Iohn Parker Sen^r
 Iohn Parker jun^r
 Iohn Winchest^r jun^r
 Tho: Woodward Sen^r
 Thom: Woodward jun^r
 Peter Aspinwall
 Sam^{ll} Aspinwall
 Iames Pemberton
 Ioseph Pemberton
 Michael Raseford
 Tho: Gardin^r Sen^r
 Andrew Gardin^r
 Tho: Gardin^r jun^r
 Ioshua Gardin^r
 Caleb Gardin^r
 Ri: Woolfar
 Christ^o Pigott
 Iohn Nison
 Iohn Ackors

Edw: Chamberlyn
 Iacob Chamberlyn
 Dorman Morean
 Isaac Heath jun^r
 Isaac Heath Senio^r
 In^o Winchest^r Sen^r
 Ebenezer^r Hudson
 Rosamond Drue
 Clement Corbin
 Iabesh Buckmaster
 In^o Kelton
 In^o Hubbard
 Edw^d Kubey
 Ioshua Kubey
 Sam: Clarke
 Iohn Clarke
 George Bersto
 In^o White Sen^r
 Benjⁿ White
 In^o White jun^r
 Ioseph White
 In^o Clarke

Uriah Clarke
 Tho: Kelton
 Tho: Boyleston
 Mathew Preist
 Tho: Kelton
 Tho: Boyleston
 Henry Segar
 William Willis
 Sam: Duncam
 Ioseph Davis
 Rob^t Harris
 Tim^o Harris
 Dan^{ll} Harris
 Iohn Harris
 Iohn Griggs
 Edw^d Cooke
 Tho: Stedman
 In^o Smale
 In^o Stebbins
 Simon Gates

The Names of those persons in Roxbury who tooke the oath of Allegiance.

m^r Iohn Eliott
 m^r Benjamin Eliott
 Ioseph Lyon
 m^r Tho: Weld Sen^r
 Tho: Weld jun^r
 Sam: Weld
 In^o Weld
 Edmund Weld
 Iohn Stebbins
 George Write
 m^r In^o Boles Sen^r
 Rob^t Hokins
 Rob^t Baker

Rich^d Chicke
 Benjⁿ Deuce
 Tim^o Steevens
 Benjⁿ Wilson
 Iacob Newell Sen^r
 Iacob Newell jun^r
 Ioseph Wise
 W^m Wise
 Math: Abdee
 Abiel Lamb
 m^r Rich^d Meede
 Ab^r Newell S^r
 Ab^r Newell I^r

Ioseph Newell
 Ioseph Bugbee
 Dan^{ll} Weld
 In^o Goade
 Ioshua Seever
 Sam: Williams S^r
 Sam: Williams I^r
 Nath: Mather
 Edw: Rogers
 Ioseph Miller
 Rob^t Williams
 Steven Williams
 Giles Payson

¹ Page 545 is blank.

Sam: Payson	In ^o Mayo S ^r	And: Wodkins
In ^o Hemenway	In ^o Mayo I ^r	Dav ^d Richards
Nath: Homes	Sam: Dunkine	Ioseph Davis
Iosh: Hemenway	Dan ^{ll} Marshcroft	Tho: Morry
In ^o Holbrooke	In ^o Davis Smith	Sam: Gore
Ioseph Gardner	In ^o Crafts	Sam: Mayes
W ^m Parcke	Shuball Seaver	Tho: Bishop
Dan ^{ll} Eaton	Rob ^t Seaver	Jabesh Totman
Pe: Gardner	W ^m Garey	Tho: Bacon
In ^o Gardner	Sam: Garey	Iosia Holland
Tho: Cheeny S ^r	Phillip Searle	Nath: Brewer
Tho: Cheeny I ^r	In ^o Searle	Nath: Garey
In ^o Newell	Phillip Searle I ^r	W ^m Briggs
Nic ^o Garey	Is ^a Newell S ^r	W ^m Davis
Philip Torrey	Is ^a Newell J ^r	In ^o Weld S ^r
Ion ^a Torrey	Ion ^a Winchest ^r	Rich ^d Webe
Tobias Davis	Ion ^a Peake	In ^o Mayes
Sam: Davis	Iohn Watson	Hen: Bowen S ^r
Tho: Swan	Nic ^o Coke	Hen: Bowen I ^r
Tho: Baker	In ^o Baker	Ben: Toker
Edw: Payson	W ^m Lyon	In ^o Holmes
Dan ^{ll} Levitt	In ^o Lyon	Pe: Kelley
Sam: Ruggles S ^r	In ^o Scott	W ^m Hoykings S ^r
Sam: Ruggles I ^r	In ^o Whitney	Ab ^r How S ^r
Ioseph Robinson	Ion ^a Casey	Ab ^r How I ^r
In ^o Peirpoint S ^r	In ^o Bugbey	Is ^a How
In ^o Peirpoint J ^r	James Frizel S ^r	Ioseph Peake
Eben Peirpoint	James Frizel I ^r	m ^r In ^o Gore
Hugh Clarke	In ^o Frizel	Ben: Gamblin
In ^o Graven ^r	Benj ⁿ Childe	Roger Addams
Ralph Bradhurst	Edw: Morris I ^r	Dan ^{ll} Brewer
Rob ^t Peirpoint	Is ^a Morris	Nic ^o Williams
Iohn Ruggles	Sam: Lyon	Is ^a Curtis
In ^o Ruggles S ^r	Tho: Lyon	James Levit
In ^o Ruggles I ^r	In ^o Holdridge	Dan ^{ll} Ainsworth
In ^o Griggs	James Draper S ^r	Rob ^t Pepper
Ab: Parker	James Draper I ^r	Is ^a Pepper
Ben: Seaben	Iohn Draper	In ^o Lescey
Ioseph Griggs	Nath: Iohnson	Iosh: Woods [547]
Griffin Craft	In ^o Davis	
Caleb Seaver	Edw: Sawell	

The Names of such persons in Dorchester who tooke the oath of Allegiance.

m ^r Iosiah Flint	Preserved Capen	In ^o Gipson
Elder Iames Humphrys	In ^o Soper	Tho: Leichfeild
L ^t In ^o Capen	In ^o Weekes	Ioshua Henshau

James Barber	Tho: Bird	Samm: Hill
Mattias Evens	In ^o Bird	Ebenez ^r Hill
Obadia Hawes	James Bird	Dan ^{ll} Ellen
Obadia Swift	Samm: Smith	Walter Everenden
Tho: Plum	In ^o Browne	Tho: Rawlins
Gamal: Bemen S ^r	Anth ^o Hancock	Ezra Clap
Gamal: Bemen I ^r	Samm: Clap	Iohn Garnsey
Noah Bemen	James Blake S ^r	Edw: Wiat
William Sumner	James Blake I ^r	Nathan ^{ll} Wiat
Roger Sumner	Iohn Blake	Iohn Plumb
Nathan ^{ll} Clap	Nehem: Clap	Samm: Plumb
Hopstill Humphrey	Nich ^o Clap	Samm: Rigbey
Isaac Humphrey	Hopstill Clap	W ^m Davenport
Iohn Beman	Desire Clap	Dan ^{ll} Preston S ^r
Iohn Hoppin	James Foster	Dan ^{ll} Preston I ^r
Tho: Hoppin	Phillip Tromodeda	Iohn Breck
In ^o Bolton	Iohn Withington	Iohn Smith
Samm: Nap	Ioseph Weekes	Phillip Evens
Ioseph Blackman	Elisha Foster	Iames Mott
Comfort Foster	Thomas Modsley	Ioshua George
Standfast Foster	Tim ^o Mather	Samm: Hix
W ^m Turner	Consid ^r Atherton	Iohn Pelton S ^r
W ^m Pond	Watching Atherton	David Iones
Ioseph Hoppin	Rich ^d Mather	Ionath: Iones
W ^m Cheeny	Ioseph Mather	Ensigne Hall
W ^m Triscott	Isaac Iones	Sam: Hall
Peter Talbut	Ebenez ^r Iones	Ri: Hall
Ammiell Weekes S ^r	In ^o Triscott	Ion ^a Hall
Ammiell Weekes I ^r	Samm: Rice	Tho: Davenport
Nich ^o Boulton	Iames minott	Cha: Davenport
Ebenez ^r Williams	Henry Thomas	Samm: Iones
Henry Gearnsey	Peter Roberts	W ^m Riall
Iohn Baker	Iohn Pike	Tho: Pearse
Walter Heaven	Ioseph Birch	Iohn Pope
Rich ^d Leeds	Enock wiswall	Samm: Capen
Rich ^d Baker	Iames Minott	Bernard Capen
Iames Baker	Francis Ball	Rich ^d Evens
Samm: Triscott	Nathan Bradley	Rich ^d Withington
Samm: Wales	Tho: Evens	Rob ^t Searle
Iohn Mason	Bryant Tucker	Edw: Pason
Nich ^o Laurence S ^r	Nathan ^{ll} Osborn	Ephraim Pason
Nich ^o Laurence I ^r	Tho: Toleman S ^r	Samm: Pason
Iohn Wales	Tho: Tilestone S ^r	Rob ^t Stanton
Iacob Hewens S ^r	Tho: Trott S ^r	Io ⁿ Stanton
Iacob Hewens I ^r	Samm: Robinson	Tho: Stanton
Edm ^d Browne	Iohn Pearson	Hen: Merrifeild
Tho: Andrews	Roger Willys	Benj ⁿ Merrifeild
Iohn Blackman	Iohn Minott Sen ^r	Samm: Sumner
Ion ^a Blackman	Samm: Trott	Matthew Huske

Ioseph Scelton	Tim ^o Foster	Roger Billing I ^r
Iames Atherton	Dan ^{ll} Elder	Henry White
Benj ⁿ Leads	oniseperus Tileston	Henry Leadbetter
Jsrael Hone	Nath ^{ll} Glover	Iames Robinson
Jsaac Hone	Ralph Houton	Ebenez ^r Withington
Ioseph Curtis	Iohn Houton	W ^m Chaplin
Iohn Spur	Ioseph Houton	Rob ^t Stiles
Robert Spur S ^r	Robert Smith	Iames White
Robert Spur I ^r	Iohn Lewis	Tho: Grant
Tho: Toleman I ^r	Samm: Topliffe	Increase Sumner
Tho: Trott I ^r	Peter lyon	Tho: Pope
Isaac Riall	Elhanan Lyon	Tho: Stevens
Jon ^a Davenport	Clement Maxfeild	Sam. Sumner I ^r
Samm: Paul	Samm: Maxfeild	John Pope I ^r
Tristrum Boreman	Roger Billing S ^r	Rich ^d But [548]
Tim ^o Tilestone	Ebenez ^r Billing	

The Names of such persons in Milton who tooke the oath of Allegiance.

m ^r Samm: Man	Ioseph Tucker	Tho: Stripings
Edw ^d Blake S ^r	Humphry Tefeny	W ^m Dennison
Tim ^o Wales	In ^o Iurden	Return Badcock
Nath ^a Wales	Ebenez ^r Wadsworth	Benj ⁿ Badcock
Geo: Lion S ^r	Eph ^m Newton	Enoch Badcock
Geo: Lion I ^r	Tho: Horton	John Owen
Ebenez ^r Clap	Martin Memory	Iohn Groset
Iames Tucker	In ^o Keny	Iohn Kinsley
W ^m Blake S ^r	Iohn Willistone	David Emes
W ^m Blake I ^r	Ri: Salisbury	Anth ^o Newton
Nath: Blake	Stev: Langley	Iohn Daniel
Edw ^d Blake I ^r	Tho: Vose	Tho: Swift Sen ^r
Geo: Sumner	Ebenez ^r Leland	Tho: Swift Iun ^r
Rob ^t Tucker	m ^r Tho: Mighell	Iohn Pitcher
Eph ^m Tucker	Henry Crane S ^r	Nath ^{ll} Pitcher
Manassah Tucker	Benj ⁿ Crane	Iames Atherton
Henry Glover	Steven Crane	Ioshua Atherton
Iohn Dicke	John Crane	W ^m Bimelbe
Rich ^d Dicke	Henry Crane I ^r	Iohn Redman
Simon Peeke	Samm: Gulliver	Rob ^t Vose
Samm: Badcock	Lancelot Pearse	Edw ^d Vose
Rob ^t Badcock	Anth ^o Gulliver	Daniel Mory
Ion ^a Badcock	Ion ^a Gulliver	Dan ^{ll} Henshaw
Ebenez ^r Badcock	Tho: Holman	Walter Morey
Teage Corahore	Tho: Williams	Ioseph Weld
Iohn Fennoo	Peter White	
Samm: Pitcher	Robert Brane	

The Names of such persons in Branterie who have taken the oath of Allegiance.

m ^r Fiske	Edw: Tompson	Edm ^d Ring
Cap ^{tn} Bracket	Samm: Penniman	Laurence Copeland
Ensigne Twelves	Samm: Bass	Tho: Copeland
W ^m Feild	Geo: Speere	Isaac Griffin
Moses Paine	Ebenez ^r Speere	Eleaz ^r Ezyat
Edm ^d Sheffeld	Samm: Speere	Samm: Howard
Samm: Sheffeld	Samm: Savill	Samm: Bass S ^r
Ioseph Addams S ^r	Ebenez ^r Haidon	Edm ^d Quinsey
Ioseph Addams I ^r	Stev ⁿ Paine S ^r	Hen: Neale S ^r
In ^o Addams	Stev ⁿ Paine I ^r	Hen: Neale I ^r
In ^o Ruggles	Neh: Haidon	Ioseph Neale
Rob ^t Parmiter	In ^o Newcomb S ^r	Ionath: Haiden [549]
Ioseph Parmiter	In ^o Newcomb I ^r	Ioseph Crosbey
Tho: White	Samm: Newcomb	Christoph ^r Webb
Fran: Nash	Tho: Scilley	Iohn Webb
In ^o Hardman	Edw: Scilley	Samm: Webb
Amos Sheffeld	In ^o French S ^r	W ^m Owen
Ioseph Aldridge	In ^o French I ^r	Ebenez ^r Owen
Ioseph Clarke	Dependance French	Nath: Owen
W ^m Veazey	W ^m French	Alexand ^r Marsh
In ^o Penniman	Tho: French	Robert Love
Dan ^{ll} Levingstone	Sam: French	Nath: Aterey
Ephraim Pray	In ^o Mott	Moses Belcher
Tho: Thayer Sen ^r	Samm. Nile	Peter Webb
Tho: Thayer Iun ^r	Samm: Bass I ^r	Samm: Fish ^r S ^r
Jn ^o Thayer	Ri: Thayer Sen ^r	Samm: Fisher I ^r
In ^o Aldrige	Ioseph Broman	Rob ^t Feild
Increase Nile	Ri: Thayer Iun ^r	Benj ⁿ Scott
Caleb Hubbard	Nath: Thayer	Iohn Hore
Ioshua Hubbard	Isaac Thayer	Iohn Man
Dennis Darby	Ferdinando Thay ^r	Iohn Heferd
Tho: Faxon	Ion ^a Thayer	Iohn Lamb
In ^o Harbour	Iosia Faxon	Iohn Haiden S ^r
Matthias Puffer	Rob ^t Taft	W ^m Veazey S ^r
Iosia Chapin	Samm: Neale	Solomon Veazey
Samm: Chapin	Christoph ^r Dyer	Peter Scott
Tho: Holbrooke S ^r	Martin Sanders	W ^m Nitingale
In ^o Bateman	Samm: Paine	David Walsbee
Submit Plumley	Jn ^o Copland	Barnaby Derifeild
Ioseph Plumley	Samm: Curtis	Samm: Spencer
Ioseph Arnall	Theoph: Curtis	Samm: Irons
Samm: Arnall	Ion ^a Padleford	Tho: Bass
Solom ⁿ Curtis	Nath: Wales	In ^o Savell
W ^m Calland	Ioseph Allin	W ^m Savell
Edw: Linsford	Ion ^a Howard	Benj ⁿ Savell

Benjⁿ Tompson
Joseph Bass
In^o Bass Sen^r

In^o Bass I^r
In^o Woodland
Tho: Holbrooke

Iohn Baxter
Iames Bracket

The Names of such persons in Waymouth who have taken the oath of Allegiance.

m^r Sam: Torrey
Elder Edw: Bate
Deacon Iohn Whitman
Deacon Ionas Humphry
Cap^t W^m Torrey
L^t In^o Holbrooke
Serj^t In^o Whitmarsh
Serj^t Sam^{ll} White
Serj^t Iohn Bailly
Serj^t In^o Vining
Iames Luddon Sen^r
Steven French Sen^r
In^o Staple Sen^r
Tho: Dun
Rich^d Bolter
In^o Shaw Sen^r
W^m Torrey jun^r
In^o Luddon
Ioseph Pitty
Sam^{ll} Pitty
W^m Pitty jun^r
Steven French I^r
Tho: White
Eph^r Hunt Senio^r
Tho: Bailly Senio^r
Iohn Harding
Rich^d Porter
Iohn King Sen^r
W^m Richards Sen^r
Andrew Foord Sen^r
W^m Pitty Sen^r
Edw: Sale
W^m Holbrooke Sen^r
Rob^t Randoll
Ioⁿ Burrell Sen^r
Andrew Foord jun^r
Iames Foord
Nathan^{ll} Foord
Sam^{ll} Foord
Ebenez^r Foord
Sam^{ll} Humphry
Nathan^{ll} Humphry
Ionas Humphrey I^r

Iohn Humphry
Iames Smith
Nathan^{ll} Smith
Ion^a Torrey
Cornel^s Fisher Sen^r
Cornel^s Fisher I^r
Iohn Richards
Ioseph Richards
William Richards
Iames Richards
Benj^a Richards
Ioshua Phillips j^r
Remember Briggs
Abiah White
Ioseph Green S^r
Ioseph Green I^r
Iohn Green
Ioseph Dyar
Iohn Blanchard
Saunders
Nic^o Whitmarsh
Simon Whitmarsh
Iohn Whitmarsh ju^r
Ebenez^r Whitmarsh
Tho: Bailly jun^r
W^m Holbrooke jun^r
Tho: Bailey jun^r
Sam: Holbrooke
Peter Holbrooke
Ichabod Holbrooke
Iames Nash
Iacob Nash
In^o Staple jun^r
Sam: Bagley
Iohn Hollis
Isaac Pool
Ioseph Pool
Iohn Pool
W^m Turrel
Rich^d Barnard
Jn^o Gregory
Robert Corbet
W^m Reed

Tho: Reed
Iohn Reed
Philip Reed
Iames Reed
Philip King
Tho: King
Sam^{ll} King
Hezekia King
Iohn King jun^r
Rich^d Phillips
Ioshua Phillips Sen^r
Iohn Bicknel
Henry Cole
In^o Whitman
Eph^r Hunt jun^r
Iohn Hunt
W^m Hunt
Enoch Hunt
Matthew Pratt
Iohn Pratt
Sam^{ll} Pratt
W^m Pratt
Ioseph Pratt
Increase Bate
Edw: Bate
Iohn Vinson
Iohn Porter
Nathan^{ll} Sale
In^o Rogers
Ebenez^r White
Edw: Kingman
Tho: Kingman
In^o Kingman
Iohn Leonard
Isaac Leonard
Iacob Leonard
Rich^d Rust
Iohn Tayler
W^m Manley
Iames Lovel
Jn^o Vining jun^r
Iames Levinstone [550]

The Names of the Male persons in Hingham who tooke the oath of Allegiance.

Cap ^{ta} Hobart	David Stowell	Iohn Wilder
Enock Hobart	In ^o Chubbuck	In ^o Tower
W ^m Gustin	Francis Gardner	Benj ⁿ Lincoln
Anth ^o Berry	Io ⁿ Tucker	Iames Gardner
Tho: Gill	Nicholas Bond	Israel Fering
Tho: Gill jun ^r	m ^r John Norton	Iohn Fering
Sam ^{ll} Gill	David Hobart	Tho: Marsh
Peter Lane	Iosia Lane	Ephraim Marsh
Tho: Hobart	Moses Collier	Iohn Lane
Moses Hobart	Ioshua Lincoln	Eph ^m Lane
Eph ^m Nicolls	Tho: Lincoln	Caleb Lincoln
Tho: Lincoln	Henry Ward	Tho: Lincoln jun ^r
Ioshua Beale	Sam: Stowell	Robert Waterman
Caleb Beale	Sam: Stowell jun ^r	Tho: Nicolls
In ^o Langlee	Iohn Stowell	Nathan ^{ll} Nicolls
Arthur Caman	Iohn Stowell	Iames Hersee
In ^o Beale S ^r	Tho: Iewell	W ^m Hersee
In ^o Beale I ^r	Simon Gross	W ^m Hersee jun ^r
Stephen Lincoln	Rich ^d Woode	Sam: Bate
Sam: Lincoln	Dan ^{ll} Lincoln	Ioseph Bate
Edm ^d Pitts	Sam: Lincoln jun ^r	Ioseph Bate I ^r
Iosia Loring	Isaac Pitts	Mordecai Lincoln
Matthew Whitton	Iohn Cutler	Iohn Thaxter
Sam ^{ll} Thaxter	Nath ^{ll} Beale I ^r	W ^m Woodcocke
Andrew Lane	Joseph Ioy	Dan ^{ll} Stoddard
Mathias Briggs	Iohn Prince	Josia Hilman
Ierm: Cushen	In ^o Record	Pe: Barnes
L ^t Iohn Smith	Dan ^{ll} Cushen I ^r	Dan: Cushen
Francis Iames	Iohn Smith	Theoph: Cushen
In ^o Mansfeild	Phillip Iames	Grego ^r Driver
Nathan Pharo	Iohn Mansfeild I ^r	Iohn Ripley
Ieremiah Beale	Iames Bate	Nath ^{ll} Baker
In ^o Chamberly'n	Iohn Beale	Ioseph Bate
Iosia Levit	Purde Magvarloe	Lazarus Beale
Iohn Ashdon	Ioshua Ripley	Iames Bable
Iames Ray	Tim ^o Huitt	Israel Levit
In ^o Burr	William King	Tho: Sayer
Sam: Nickolson	Cornel ^s Cantlebury	Simon Burr
Benj ⁿ Iones	Ant ^o Sprague	Mathew Cushing
Iohn Lazell	Iohn Sprague	Ioseph Iones
Abram. Ripley	Ioshua Lazell	W ^m Sprague
Enoch Whitton	Abram. Ripley I ^r	Steven Lazell
Stev ⁿ Gardner	Tho: Whitton	Iames Whitton
Peter Bacon	Hump ^r Iohnson	Nath ^{ll} Chubbuck
Iohn Iacob	Sam: Bacon	Benj ⁿ Johnson
Eph ^r Wilder	W ^m Fisher	Tho: Coome

John Luis	Iacob Beale	Simon Burr jun ^r
Isaac Wilder	Sam: Bagle	Cornel ^s Cantebury, I ^r
John Tower jun ^r	Nath ^{ll} Beale	Ioseph Iones jun ^r
Ioshua Hobart mar ^r	Silvanus White	Benj ⁿ Iones S ^r
Christoph ^r Cooke	Ioseph Andrews	Isaac Lazell
Edmund Hobart	Paul Gilford	James Whitton I ^r
Daniel Hobart	Sam ^{ll} Stoddard	In ^o Gardner
Sam ^{ll} Hobart	Ierm: Beale	Rob ^t Dunbar
Tho: Lincoln	Benj ⁿ Whipple	Ioseph Iacob
Ioseph Lincoln	Peter Cushen	Edw: Wilder
Geo: Lane	Mathew Cushen	Iabez Wilder
Ebenez ^r Lane	James Hauke	Benj ⁿ Tower [551]
Daniel Lincoln S ^r	John Ripley I ^r	Sam ^{ll} Tower
Daniel Lincoln I ^r	Ioseph Loring	Ibrooke Tower
James Hersee jun ^r	Benj ⁿ Bate	John Angel
In ^o Hersee Sen ^r	John Low	W ^m Hilliard
In ^o Hersee jun ^r	John Pharo	John Stodder
Joshua Lane	John Levit	John Bull
John Lane	Ioseph Ford	Gilbert Foresight

The Names of the Male Persons in Hull, who tooke the oath of Allegiance.

m ^r Whitman	Israel Vickery	John Benne
Isaac Cole	Io ⁿ Chamberlyn	Isaac Prince
Isaac Lobdell	John Simons	Isaac Lobdell I ^r
Tho: Iones	Robert Milton	Rich ^d Stubbs
Luke Squire	Nathan ^{ll} Chamberlyn	John Benson I ^r
Nath ^s Bozworth I ^r	Ioseph Benson	Tho: Collier I ^r
Benj ⁿ Chamberlyn	Robert Gold	Christoph ^r Wheeton
Tho: Iones Iun ^r	Serj ^t Benj ⁿ Bosworth	Geo: Phippeny
Ioseph Bosworth	Benj ⁿ Bosworth	Edw: Bosworth
Robert Coomes	Cha: Kemball	Deac ⁿ Nath: Bosworth
Geo: Vickery Sen ^r	Abraham Iones	W ^m Chamberlyn
Tho: Prince	Benj ⁿ Lovrell	In ^o Benson Sen ^r
Hen: Chamberlyn	Bellima Bozworth	John Collier
Sam: Baker	Abram: Iones I ^r	
James Cheevers	Ieremia Bosworth	

The Names of the Male Persons in Dedham who have taken the oath of Allegiance.

m ^r W ^m Addams	Elder Io ⁿ Hunting	Eleaz ^r Kingsbury
Andrew Dewing	Sam: Mills	Michael Metcalfe
Benj ⁿ Mills	Sam: Barbur	Robert Ware Iun ^r
John Fuller	John Rice Sen ^r	Ephraim Ware
John Rice Iun ^r	Tho: Alderidge	John Paine
Peter Negro	Sam: Aldridge	Ensigne Tho: Fuller

Benj ⁿ Fuller	Sam: Fuller	Joseph Fairbank
John Eaton	Tho: Fuller	Benj ⁿ Fairbank
Joseph Kingsberry	John Smith	James Mackanah
Edw ^d Richards	Nathan ¹¹ Eaton	Nile Mackiah
James Fuller	Nathan ¹¹ Richards	Iosia Fisher
Ephraim Wilson	Henry Wilson	Ion ^a Freeman
John Gay Sen ^r	Nathan ¹¹ Bullard	In ^o Farrington
Ionath ⁿ Gay	John Gay Iun ^r	Nath ¹¹ Farrington
John Pond	Serj ^t Daniel Pond	Abram. Wheeler
Amos Fisher	Ephraim Pond	Rob ^t Fuller
John Fisher	Serj ^t Henry Wight	Serj ^t Tho: Metcalfe
Tho: Battellee	Ioseph Wight	Rich ^d Puffer
John Battelle	Daniel Wight	John Guile Sen ^r
Ionath ⁿ Battelle	Benj ⁿ Wight	Sam ¹¹ Guile
John Homes	Jonathan Wight	Benj ⁿ Onion
Nathan ¹¹ Chickering	Daniel Fisher	L ^t Nath ¹¹ Sternes
Daniel Hawse	Edward Haws	John Everitt
John Haws	Tho: Fisher	Sam ¹¹ Everitt
John Hunting	Robert Allin	Tho: Clap
Sam ¹¹ Sheers Sen ^r	Tho: Jordan	James Vales Iun ^r
Sam ¹¹ Sheers Iun ^r	Tho: Hall	John Vales
Sam ¹¹ Gay	William Deane	Isaac Chinery
Rob ^t Avery	In ^o Thurston	Amos Blake
John Day	Henry Lane	Serj ^t Ri: Ellice
Ralph Day	Nathan ¹¹ Gay	John Ellice
John Bacon Sen ^r	Eliazar Gay	W ^m Avery Iun ^r
John Bacon I ^r	James Parker	John Fairbanke S ^r
Daniel Bakon	John Mason	John Fairbanke I ^r
John Baker	Nathan ¹¹ Kingsberry	Sam: Bullard
Vigilance Fisher	John Deane	Ion ^a Metcalfe
Nathan ¹¹ Coleburn S ^r	Asahel Smith	Ion ^a Fairebanke
Nath ¹¹ Coleburn I ^r	Ioshua Fisher	Io ⁿ Guile Iun ^r
John Coleburn	John Richards	James Grant
Sam ¹¹ Coleburn	Elice Wood	Ion ^a Fuller
Benj ⁿ Coleburn	Ioseph Newberry	Eliezar Farrington
Joseph Coleburn	Sam ¹¹ Whiting	Peter Woodward S ^r
Iedidia Everett	Geo: Bearsto	Peter Woodward I ^r
Deacon In ^o Aldis	Tho: Paine I ^r	Ri: Everitt
John Aldis Iun ^r	John Ware	James Thorpe Sen ^r
Daniel Aldis	Hezekiah Peck	James Thorpe Iun ^r
Nathan ¹¹ Ware	Ezra Morse	Io ⁿ Mackintosh
Ralph Freeman I ^r	Tho: Herring	James Mackerwither
Nath ¹¹ Whiting	James Herring	Ralph Freeman S ^r
Tim ^o Whiting	John Herring [552]	David Freeman
Eliezar Metcalfe	Corn ^t Tim ^o Dwight	John Pidge
Robert Ware Sen ^r	John Dwight	James Vales Sen ^r
Sam: Ware	D ^r W ^m Avery	Nath ¹¹ Haws
Tho: Paine Sen ^r	Ionath ⁿ Avery	W ^m Mackeny S ^r
Tho: Hockinton	Sam ¹¹ Parker	W ^m Mackeny I ^r

Medfeild Males who have taken the oath of Allegiance.

m ^r In ^o Wilson S ^r	In ^o Hammond	Sam ^{ll} Turnor
m ^r Ralph Wheelock	Eph ^m Clarke	Eliezar Adams
Cap ^t Barbur	Sam: Bullin I ^r	Iohn Adams
Serj ^t T: Thurston	Ioseph Bullin	Iasper Adams
Ioseph Clarke S ^r	Tho: Thurston I ^r	Henry Adams
In ^o Turner S ^r	Sam: Barbar	Zechariah Barbar
Francis Hammond	Iohn Wilson I ^r	Iohn Gipson
Nic ^o Rocket	Sam: Wheelock	Peter Adams I ^r
Alexand ^r Lovet	Eliaz ^r Wheelock	Ion ^a Adams I ^r
W ^m Partridge	Sam ^{ll} Ellice	Ioseph Bullard S ^r
In ^o Partridge S ^r	Ioseph Ellice	Iohn Plimpton
Ion ^a Adams S ^r	Iohn Adams I ^r	Ioseph Plimpton
Sam: Morss	Elisha Adams	Ioseph Rocket
Dan ^{ll} Thurston	Sam: Sheppard	Ioseph Medcalfe
Ion ^a Boyden	Iohn Cooke	Benj ⁿ Wheelocks
Benj ⁿ Clarke	Sam: Cooke	Walter Cooke
Seth Smith	Abram. Harding	Geo: Fairbanks jun ^r
Serj ^t In ^o Harding	In ^o Ellice I ^r	Iohn Richardson
In ^o Ellice Sen ^r	Ioseph Daniel	W ^m Allin
In ^o Medcalfe Sen ^r	Iosia Rocket	Vincent Shuttleworth
Henry Smith	Ioseph Morss S ^r	Io ⁿ Medcalfe Iun ^r
Tho: Boyden	In ^o Warfeild S ^r	Michael Medcalfe
Peter Addams S ^r	Jn ^o Warfeild I ^r	Benj ⁿ Fiske
Edw ^d Addams	Sam: Rockett	Iohn Bullin
In ^o Thurston I ^r	Benj ⁿ Rockett	Iohn Barbar
Tho: Ellis	Sam: Wight	Nath ^{ll} Partridge
Iohn Partrt	Gershom Wheelocke	In ^o Partridge I ^r
Ioseph Cheeny	Iohn Fisher	Tho: Wight
Martin Phillips	Robert Mason	Ephraim Wight
Sam ^{ll} Smith	Iohn Rocket	Ioseph Warren
Ieremiah Morss	Ioseph Allin	Gamaliel Hinsdell
Nathan ^{ll} Allin	Iames Vale Sen ^r	Martin Iowles
Iohn Allin	W ^m Mackeny S ^r	Iohn Smith
Iohn Clarke	Isaac Chenery S ^r	In ^o Vale
Nathan ^{ll} Clarke	Isaac Chenery I ^r	W ^m Mackeny I ^r
Iames Allin	Iohn Turnor jun ^r	Nath ^{ll} Haws
Ioseph Clarke I ^r	Isaac Turnor	

Sherborn Males who have taken the oath of Allegiance.

Dan ^{ll} Morse S ^r	Sam: Fisher [553]	Hopestill Lealand
Dan ^{ll} Morse I ^r	Iohn Eames	Ebenez ^r Lealand
obadia Morse	Iohn Death	Tho: Starbucke
Ionath ⁿ Morse	Sam: Bullin	Iohn Hill Sen ^r
Tho: Eames	Ephr ^m Bullin	Sam: Hill
Iohn Perry	Eleaz ^r Wood	Benj ⁿ Bullard
Nathan ^{ll} Morse	Hen: Lealand	Geo: Fairbanke

Eliazar Fairbanke	Tho: Holbrooke S ^r	Iohn Bricke
Ioseph Twitchell	Tho: Holbrooke I ^r	Moses Adams
Benj ⁿ Twitchell I ^r	Eliez ^r Holbrooke	Ionath ⁿ Fairbanke
Tho: Gleasen	Tho: Bricke	Benj ⁿ Twitchell S ^r
Zach: Paddleford	Ebenez ^r Hill	W ^m Sheffeild
Elisha Bullin	Iohn Hill jun ^r	Zachary Buckminst ^r
Michael Wilson		

The foregoing Lists of the severall Towns within the County of Suffolke (all excepting Boston) were Returned unto me by the Worpp¹¹ Ioseph Dudley Esq^r Assist. who informed me that the persons therein named, had taken the oath of Allegiance to his Majesty; being Administred unto them by himselfe.

attests. Is^a Addington Cler. [554]

At A County Court held at Boston 28^o January: Ann^o 1678.

Present

SIM: BRADSTREET Esq ^r Dep ^t Gov ^r	EDW ^d TYNG Esq ^r	} Ass ^t
	IOSEPH DUDLEY Esq ^r	

Grandjury Sworn

m ^r Ri: Collacott	Moses Collier	In ^o Peirpoint
James Everill	In ^o Thurston Sen ^r	Sam ^{ll} Williams
Francis Dowse	Tim ^o Dwight	Ri: Hall
In ^o Search	Tho: Fuller	Nich ^o Clap
Abel Porter Sen ^r	W ^m Blake Sen ^r	W ^m Veezy Sen ^r
Edw ^d Wilder	In ^o Vining	

Jury of Tryals Sworn

m ^r Charles Lidgett	Eleaz ^r Kingsberry	In ^o Gravener
Iosiah Hilman	In ^o Fenn ^o	Clem ^t Maxfeild
James Allen	Iacob Nash	Roger Willys
Tho: Herring	Abiel Lamb	Sam: Fisher

In^o Clarke and Pen Townsend put on in Lemoign's case in roome of m^r Lidgett & Hilman who were except^d against.

[PARSONS v. HERRIS]

Ioseph Parsons Attourney of Humphry Parsons Factor for sundry persons in England plaint. cont^a Thomas HERRIS Defend^t in an action of the case for non paym^t of Nineteen pounds and ten Shillings in money due by bill under the hand & Seale of the s^d HERRIS bearing date the. 16th Octob^r 1678. with all other due damages: . . . The Jury . . . found for the plaint. Eleven pound five Shillings in money and costs of Court, Allow^d Nineteen Shillings.

Execucion issued. 29^o Ianur^o 1678.

[THAYER v. WEBB]

Rich^d Thayer jun^r or Nathanael Thayer jun^r or either of them plaint^a ag^t Christopher Webb Defend^t The plaint^a were non Suted by reason of the uncertainty of the process.

[BUCKLEY v. HERRIS]

Rich^d Buckley plaint. cont^a Thomas HERRIS Defend^t in an Action of debt of thirty pounds eight Shillings and two pence in money due

by bill Obligatory under the hand of the s^d Herris bearing date the. 22^d of Ianuary. 1677. with all other due damages: . . . The Iury . . . found for the plaint. thirty pounds eight Shillings two pence in money according to bill, and costs of Court Allow^d twenty Six Shillings and six pence.

Execucion issued. 29^o Ianur^o 1678.

[ASPINWALL v. EVENS]

Peter Aspinwall of Boston plaint. cont^a In^o Evens sometime of Boston Defend^t in an action of the case concerning a parcel of goods left in the hand of the s^d Peter Aspinwall for the benefit of the Children belonging to the said In^o Evens to the value of fourteen pounds and five Shillings wth Estate of goods is in part laid out for the bringing up of the Children and Clothing of them Suitably which the s^d Evens hath neglected to pay and for all due damages. . . . The Iury . . . found for the plaint. the goods Sued for to value of fourteen pound five Shillings and costs of Court Allowed Seventeen Shillings two pence.

Execucion issued. 5^o Feb^r 1678.

PURKIS agt. CURWIN &^a

George Purkis Attourney of Lawrence Baskervyle plaint. cont^a the goods or Estate late belonging unto Iohn Winder Merch^t in the hands of Iohn Palmer who married wth Sarah the Relict & Adm^x of the Estate of the s^d Winder or wheresoever else it may bee found And the goods or Estate late [555] Belonging unto Robert Gibbs Merch^t in the hands of Ionathan Curwin who married with Elizabeth the Relict & Adm^x of the Estate of the s^d Gibbs; Also Iames Whetcomb Merch^t them or either of them Defend^{ts} in an Action of the case for not paying the Summe of £134:10:8. sterling money due by bond under the hands & Seales of the s^d Winder, Gibbs and Whetcomb dated. 19^o Feb^r 1663. wherein they stand jointly and severally bound for the Summe afores^d wth all other due damages: . . . The Iury . . . found for the Defend^{ts} costs of Court.

[See Purkis v. Winder, session of 29 April, 1679, p. 1002, below.]

ROSE cont^a STOWELL

Roger Rose plaint. cont^a Samuel Stowell Defend^t According to Attachm^t upon bond dat^d 6th Feb^r 1671. And the Defend^t producing his Summons by which hee was warned to Answer for not paying according to bond dat^d 6^o Feb^r 1678. The plaint. was nonsut^d in failure of Summons.

[See case of same title, above, p. 932.]

JACKSON cont^a WHITE &^a

Henry Jackson plaint. cont^a Tho: White, Robert Gardner Samuel Ravenscroft &^a or either of them Defend^{ts} according to Attachm^t for withholding from him the summe of one hundred pounds in money or thereabouts due for his whole Share of the prize Griffin &c. The Attachm^t being read and given to the Iury which was the onely paper produced in the case either by plaint. or Defend^{ts} The Iury . . . found for the Defendants costs of Court.

LEVERETT cont^a WATTS

Hudson Leverett plaint. cont^a Iohn Watts or Elinor Watts or either of them Defend^{ts} for non paym^t of Sixteen pound in money due by bond bearing date. 17th Ianuary 1677. wth due interest and all other due damages. . . . The Iury . . . found for the plaint. Forfiture of the bond Sixteen pounds in money and costs of Court allow^d thirty four Shillings.

Execucion issued. 13^o Feb^r 1678.

HOMARD cont^a WHITE &^a

Robert Homard plaint. cont^a Thomas White, Robert Gardner Samuel Ravenscroft etc. Defend^{ts} according to Attachm^t for withholding from him the Summe of one hundred pounds in money or thereabouts due for his whole Share of the prize Griffin &c. The Attachm^t being read and given to the Iury, which was the onely paper produced in the case either by plaint. or Defend^{ts} The Iury . . . found for the Defendants costs of Court. [556]

ACORMAN cont^a VALENTINE

Richard Acorman plaint. ag^t Thomas Valentine Defend^t in an action of the case for unjustly and illegally breakeing open a chest

of the s^d Acormans whereby the plaint. is greatly damnified by the looseing of the plaint^a Clothes and Booke of Accounts and other writings of great concernm^t which was in the s^d Chest with all other due damages &c. . . . The Iury . . . found for the Defend^t costs of Court Allowed twenty Shillings The plaint. Appealed from this Iudgem^t unto the next Court of Assistants, and put in Security for prosecutⁿ of his Appeale to effect.

HEYWOOD cont^a MAST^r

Anthony Haywood plaint. cont^a Edward Master Defend^t The plaint. withdrew his Action.

OBINSON cont^a HILL

William Obinson plaint. cont^a Thomas Hill Defend^t in an action of the case for that the s^d Hill hath not put and kep't in repaire a barke Mill, houseing & fences & other concerns according to lease or covenant under his hand and Seale bearing date. 24^o August. 1676. whereby the s^d Obinson is greatly damnified this wth all other due damages: . . . The Iury . . . found for the Defend^t costs of Court, Allowed thirteen Shillings four pence.

[See Hill v. Obbinson, below, p. 1094, and cf. Gilbert v. Obinson, above, p. 738.]

WALDRON agt. WOOLCOT

William Waldron plaint. cont^a John Woolcot Sen^r Defend^t According to Attachm^t The Defend^t moved for a nonsute objecting that neither plaint. nor Defend^t were livers in this County, hee being a liver in Newberry and the plaint. in a former Attachm^t taken out ag^t the Defend^t calling himsele of Dover. The granted a nonsute and allowed the Defend^t costs twenty Shillings and six pence.

SAVAGE cont^a HUTCHINSON

Ephraim Savage who married with Sarah Relict and Adm^x of the Estate of Obadiah Walker plaint. cont^a Elisha Hutchinson who married with Elisabeth Relict and Adm^x of the Estate of Iohn Freake dece^d Defend^t The plaint. was nonsuted in failure of giving Summons the reading of the Attachm^t to the Defend^t being before his goods were Attached.

DALLEY cont^a WHITE &^a

Randall Dalley plaint. cont^a Thomas White Robert Gardner Samuel Ravenscroft &c. or either of them Defend^{ts} according to Attachm^t The plaint. withdrew his Action. [557]

ALLEN cont^a KNIGHT

Jacob Allen plaint. cont^a Richard Knight & Hannah his wife as Shee is Executrix to the Estate of her former husband Hope Allen dece^d Defend^t in an action of the case for withholding from and not paying unto the plaint. about Sixty four pounds given him by the last Will of his Father Hope Allen as by the s^d Will & the Inventory of the Estate of his s^d Father more fully will make appeare to bee the plaint^s proportion thereof or thereabouts wth damages: . . . The Iury . . . found for the plaint. That the Defend^t pay and deliver him his proportionable part of his Father Hope Allen's Estate according to Will & costs of Court allow^d Forty one Shillings and five pence.

SALTER cont^a ROSE

Iabez Salter plaint. cont^a Roger Rose Defend^t in an action of the case for damage done to the s^d Salters Coales, which Coles were upon his Wharffe secured wth a Fence; which Fence was broken down by the s^d Rose his Vessell, to the s^d Salters damage in his Coles and wharfe to the value of Four pound in money wth damages. . . . The Iury . . . found for the plaint. Fifty five Shillings money damage and costs of Court allow^d thirty one Shillings and eight pence.

BARNES cont^a HARWOOD

Nathanael Barnes plaint. cont^a Henry Harwood Defend^t in an action of the case upon defamation for reporting by himselfe and his wife that the plaint. is perjured & forsworn at Charlestown Court with other scurrilous speeches and reports against the plaint. to his great damage with other due damages &c. . . . The Iury . . . found for the plaint. twenty Shillings mony damage and costs of Court allow^d thirty nine Shillings two pence.

Execucion issued. 2^d Feb^{ro} 1678.

CHOCK cont^a CLARKE

Peter Chock plaint. cont^a William Clarke Defend^t for refusing to deliver or pay to the plaint. Fifty Shillings Starling money of England which the plaint. lent the s^d Clarke in Bristoll owned by the s^d Clarke here in Boston before severall persons as shalbee made appeare &c. . . . The Iury . . . found for the Defend^t costs of Court grant^d Fourteen Shillings and four pence.

Execucion issued. 8^o Feb^r 1678. [558]

BAKER cont^a FIGG

Thomas Baker Adm^r to the Estate of his late Son Joseph Baker plaint. cont^a Mary Figg Widdow Defend^t in an Action of the case for refusing to deliver the Summe of twenty pounds or thereabouts in money which Shee hath in her hands belonging to the late Ioseph Baker wth all other due damages &c. . . . The Iury . . . found for the plaint. twenty pounds money damage and costs of Court: The Defend^t Appealed from this Iudgem^t unto the next Court of Assistants & put in Security for the prosecution of her Appeale to effect.

[See Records of Court of Assistants, i. 133-34.]

HARRISON cont^a CANE

William Harrison plaint. on Appeale from the Iudgem^t of the Worpp¹¹ Edw^d Tyng Esq^r dat^d Ianur^o 7th 1678. cont^a Nathanael Cane Defend^t The Iudgem^t Reasons of Appeale and evidences in the case produced being read and committ^d to the Iury which are on file, The Iury . . . found for the plaint. Reversion of the former Iudgem^t And thirty Seven Shillings one penny money damage and costs of Court allowed twenty Six Shillings eight pence.

Execution issued. 31^o Ianur^o 1678.

SMITH cont^a BOUDEN

Cap^{tn} Iames Smith formerly of Marblehead now resident in Boston plaint. ag^t Mica Bouden Defend^t in an action of the case for not paying the Summe of one hundred pound in money due to the plaint. by the breach of an Indenture or Lease dated the. 13. day of March. 1674 under the hand and Seale of the s^d Bowden with

all other due damages. . . . The Iury . . . found for the Defend^t costs of Court: The plaint. Appealed from this Iudgem^t unto the next Court of Assistants and put in Security for prosecution of his Appeale to effect.

[See Records of Court of Assistants, i. 134.]

CLARKE cont^a CROW

Hugh Clarke plaint. cont^a Christopher Crow Defend^t The plaint. withdrew his Action.

WILKESON cont^a ELIOTT

William Wilkeson plaint. cont^a Ioseph Eliott Defend^t in an action of the case for not paying unto the plaint. the Summe of ten pound Seventeen Shillings and six pence in money due for house Rent with all other due damages: . . . The Iury . . . found for the Defend^t costs of Court.

SCILLEY cont^a THAYER

Thomas Scilley plaint. cont^a Richard Thayer Defend^t in an action of the case for wrongfully imprisoning the s^d Scilley under colour of Law by Attaching him upon [559] pretence of damage and detaining him in prison a considerable time which is greatly to his damage both in his name and Estate with all other due damages: . . . The Iury . . . found for the plaint. Fifteen pounds in money damage and costs of Court allow^d twenty five Shillings six pence.

Execucion issued. 18^o Feb^r 1678.

COLEMAN cont^a WAY etc.

W^m Coleman Attourny to Martha Emery the Attourny of Thomas Emery her husband plaint. cont^a Richard Way & John Indicott Defend^{ts} in an action of the case for not paying the Summe of two hundred and Ninety two pounds due according to a bond or writing dated. 31^o October 1677. under their hands and Seales with damages. . . . The Iury . . . found for the plaintife forfiture of the bond of two hundred ninety two pounds & costs of Court: The Defend^t moved for a chancery & makeing it appeare to the Court that they had paid out the whole Estate according to the condicion of s^d bond The Magistrates chanced this forfiture to nothing.

BAUBIENCE cont^a Ship Griffin

Sebastian Baubience Chirurgion plaint. cont^a Ship Griffin whereof Christopher Linch was formerly ma^r for not proceeding her Voyage according to the plaint^s Agreem^t

ARNALL cont^a AIRES

John Arnall or his certain Attourney plaint. cont^a Peter Aiers Defend^t in an Action of debt of Eighteen pound in money due by booke with damages, The Attachm^t & return being read the plaint. appearing by his Attourney m^r Tho: Norman who engaged in Court before joining issue to respond the Defend^{ts} costs if hee obtained judgem^t After which . . . The Iury . . . found for the Defend^t costs of Court.

John Arnall plaint. cont^a Benjⁿ Allen Defend^t The plaint. was nonsuted upon non appearance.

TAYLOR cont^a HEWS

William Taylor merch^t Attourney to W^m Stoughton Esq^r plaint. cont^a Joshua Hews Defend^t in an action of the case for not paying the Summe of twelve pounds in money or thereabouts due for house Rent as shalbee made appeare wth damages: . . . The Iury . . . found for the plaint. nine pounds six Shillings eight pence in money & costs of Court. Allow^d 18^s 4^d

Execucion issued 12^o feb^r 1678. [560]

Bozoun Allen plaint. cont^a Ioseph Smith Defend^t The Defend^t being dead since the Serving the process the Action fell.

KEMBLE cont^a ARNALL

Mary Kemble Adm^x to the Estate of Henry Kemble dece^d plaint. cont^a John Arnall Defend^t in an action of the case for not paying the Summe of ten pounds or thereabouts in money due upon Acco^t as shalbee made appeare with damages. . . . The Iury . . . found for the plaint. eleven pounds one Shilling five pence in money damage & costs of Court Allowed thirty two Shillings eight pence.

Execucion issued pr^o Feb^r 1678.

Timothy Yeales cont^a Richard Bradley Defend^t The plaint. withdrew his Action.

WHITE &^a cont^a LEMOIGNE

Thomas White, Samuel Ravenscroft, Christopher Goffe, Stiles Dradey, Edward Baily, Robert Gardner & severall other Englishmen who belonged unto the Ship Griffin & are concerned in severall prizes taken in the bay of Metansis under the Commissions of Cap^{tn} Bernard Lemoign & Cap^{tn} Peter Otto plaint^s cont^a Cap^{tn} Bernard Lemoign a Frenchman Def^d in an action of the case for that the s^d Lemoign hath broken covenant with the plaint^s in not comming with his prizes to Nantasket or Boston and there shareing according to covenant but contrary thereunto in a perfidious & treacherous manner hath divided & shared one of s^d prizes at Road Island, and not onely so but hath prosecuted the plaint^s in Boston at a Court of Admiralty or Court of Assistants and hath obtained a decree against the plaint^s which is to their unsupportable loss and damage to the value of at least five thousand pounds wth other due damages. . . . The Iury . . . found for the plaint^s five thousand pounds damage and costs of Court: The Defendant appealed from this Iudgement unto the next Court of Assistants and put in Security for prosecution of his Appeale to effect.

[There are more details in Records of the Court of Assistants, i. 129. Eventually the plaintiffs took it out on the person of Lemoign, as appears at the adjourned session of 6 February, 1678/79, p. 994, below.]

WHITE &^a cont^a OTTO

Thomas White, Samuel Ravenscroft, Christopher Goffe, Stiles Dradey George Mathews and Rob^t Gardner plaint^s cont^a Cap^{tn} Peter Otto a Frenchman Defend^t for that the s^d Cap^t Otto did in a most perfidious treacherous and injurious manner complaine of and prosecute them for Shareing and Selling the money and goods brought in the Ship Griffin and Ship Nassaw &c. . . . The Iury . . . found for the Defend^t costs of Court. [561]

GREELY cont^a HALL

Phillip Greely of Salisbury plaint. cont^a Andrew Hall Defend^t for that the s^d Hall hath illegally possessed himselfe of a Barque called

the Iohn & William of burden about. 30. tons whereof W^m Hacket was late Ma^r whereof the s^d Greely is right & proper owner of one halfe with all her Appurtenances, yet notwithstanding the s^d Hall keepeth the plaint. out of the possession of the said halfe of his Barque and disowneth him as an owner &c. whereby hee is damnified to the value of about one hundred pounds in money with other due damages. . . . The Iury . . . found for the plaint. that the Defend^t deliver him one halfe of the Barque Sued for or Seventy pounds in money with costs of Court allow^d Forty nine shillings two pence. m^r Anthony Checkly Attourney for Greely (who prosecuted the Sute in his behalfe) appearing in the Office. 4^o march: 1678. Acknowledged hee was fully Satisfied the abovementioned judgement by m^r Nicholas Paige desiring it might bee so entred.

RAVENSCROFT cont^a HOMER

Samuel Ravenscroft plaint. cont^a Robert Homer Defend^t in an action of debt for non payment of twenty pounds in money due for so much lent him, with damages. . . . The Iury . . . found for the plaint. twenty pounds in money & costs of Court.

RAVENSCROFT cont^a JACKSON

Samuel Ravenscroft plaint. cont^a Henry Jackson Defend^t in an action of debt for non payment of twenty pounds in money due for so much lent him with damages: . . . The Iury . . . found for the plaint. twenty pounds in money & costs of Court.

BRADSTRETT cont^a GROSS

Simon Bradstreet Esq^r plaint. cont^a Clement Gross Defend^t in an action of debt of about three pounds & fourteen Shillings in money being the remaind^r of a bigger Summe due for a parcel of Malt sold by the s^d Simon to the wife of the s^d Gross in the yeare. 76. wth damages; . . . The Iury . . . found for the plaint. three pound twelve Shillings six pence in money and costs of Court.

TYNG cont^a GILBERT &^a

Edward Tyng Esq^r Treasurer for the County of Suffolke plaint. cont^a William Gilbert, Ioseph Weeden & William Mumford or either

of them Defend^{ts} for not paying the Summe of Ten pounds in money for the paym^t whereof they are jointly and severally bound as by bond dat^d 9th x^{br} 1678. declared forfeited by [562] The last County Court in Boston: . . . The Iury . . . found for the plaint. forfeiture of the bond ten pounds money and costs of Court Vpon Request of the Defend^t Gilbert The Court chancered this Forfiture to five pounds in money & costs of Court Allowed twelve Shillings.

Execution issued. 5^o March. 1678/9.

LEVERETT to VSHER

Hudson Leverett confes't Iudgem^t against his Estate and person unto Hezekiah Vsher for twenty pounds money to bee paid in one month from this day being: 28^o Ianur^o 1678.

Execution issued. 27^o Iune. 1679.

AMEY to CLARKE

Iohn Amey junio^r confes't judgem^t ag^t his Estate and person for Four pounds seventeen Shillings six pence to bee paid in money unto Susanna Clarke Attourney of her Husband Ionas Clarke junio^r

Execution issued. 31^o Ianur^o 1678.

CROW to HUBBARD

Christopher Crow confes't Iudgem^t ag^t his Estate and person unto Iohn Hubbard Merch^t for Eighteen pounds in money in full of a bill given the s^d Hubbard & left on file.

Execution issued. 5^o Feb^r 78.

NORDEN to HUBBARD

Samuel Norden confes't judgem^t ag^t his Estate and person unto Iohn Hubbard Merch^t for two and twenty pounds Fifteen Shillings six pence to bee paid in money in full of a bill on file.

Execution issued. 5^o Feb^r 1678.

WILKINSON to TAPPING

William Wilkinson confes't judgem^t ag^t his Estate & person unto Mariana Tapping Widdow, Relict & Adm^s of the Estate of Ioseph

Tapping for ten pounds Eighteen Shillings one penny due by bill and Booke.

Execution issued. 10th Feb^r 1678.

MAN & SPRAGE Fin^d 10^s apeice

Iohn Man of Boston and Anthony Sprague of Hingham were fined ten Shillings apeice in money to the County for not attending the Service of the Iury of Tryals according to Summons

Order for disposition of m^{rs} LAKE her Estate

It 's ordered that the Administrato^{rs} to the Estate of m^{rs} Lucey Lake bring in an Acco^t of that Estate to the Clerke of the Court And that they pay in the ballance that is in theire hands unto her mother m^{rs} Lucey Anna Bulkely (m^r Edw^d Bulkely her Husband giving a receip^t to the Clerke for the same) to remain in her hands untill some other person may make a better claim to it.

Order to the Treasurer

Order passed for the County Treasuro^r to pay unto Thomas Battelle Constable of Dedham Nineteen Shillings money, being the remainder of his bill of charges in prosecuting and apprehending prison breakers. [563]

CORBET & GEORGE Negro Sent^a

Robert Corbet and George a Negro Servants unto Stephen French of Waymouth convict^d by theire own confession in Court of committing Fornication with Marea a Negro theire fellow Serv^t Sentenced to bee whip^t with twenty Stripes apeice and to pay charges of prosecutⁿ & fees of Court.

Committee ab^t SMITH's Estate

It's ordered that Cap^{tn} Daniel Fisher and the other two Commission^{rs} of Dedham bee a Committee for the receiving of the claims to the Estate of Ioseph Smith late dece^d at Dedham. The Creditors to bring in theire claims to the s^d Committee (at the time & place appointed by them) within two months next following, And to pay

it out in proportion as it will beare to the Credito^{rs} they first Satisfying the funerall charges & other disburstm^{ts} made upon s^d Smith in his Sickness.

CHAMBERLYN his Estate ordered

It's ordered that the Estate of William Chamberlyn of Hull dece^d intestate, amounting by Inventory to Five hundred twenty nine pounds bee thus proportioned (after the payment of debts) unto the Eldest Son One hundred pounds, hee defalkeing thereout the value of the Land his Father gave him before his death, And to the other Eight Children Fifty pounds apeice and so in proportion among the Children as any Estate shall remain or bee comming, to bee paid unto them as they Attain their respective ages and in the meane time to bee improved by the Administrato^{rs} for their education.

AMORY her Guardian

It's ordered that Edward Drinker of Boston Potter bee Guardian unto Mary Amory daughter of Simon Amory late of Boston Marrin^r dece^d untill Shee come of age to choose for her Selfe hee giving bond according to law for the faithfull discharge of his trust.

WILMOT his Guardian

Phillip Squire of Boston Brewer is allowed to bee Guardian unto Iohn Wilmot Son of Iohn Wilmot sometime of Boston Marrin^r dece^d hee giving Security according to law for the faithfull discharge of that trust.

CARTER to TYNG

Ralph Carter confes't Iudgem^t ag^t his Estate & person unto Edward Tyng Esq^r for the Summe of Five pounds Fifteen Shillings to bee paid in money.

Execution issued. 29^o March. 1678.

HOARE Fin^d 40^s etc.

William Hoare complained against by the Clerkes of the market for abuseing of them by reproachfull language & scurrilous wicked expressions &c. contained in their complaint exhibited to this Court, put himselfe on tryall by a Jury, who having heard the complaint &

evidences produced, on consideration thereof the Iury brought in their Verdict, they found the s^d Hoar guilty of the complaint made against him according to law: The Court Sentenced him to pay Forty Shillings in money fine to the County and ten pounds money to the Clerkes of the market or to make an Acknowledgem^t to the Courts and their Satisfaction, to pay charges of prosecution and fees of Court standing committ^d &c. [564]

[HOARE v. COLEMAN et al.]

William Hoare plaint. cont^a William Coleman W^m Gilbert &c. Clerkes of the market Defend^{ts} — Verdict: The Iury do not finde the Defend^{ts} guilty of the charge laid against them according to law.

STANNIFORD cont^a BRIGGS

In the case of Iohn Staniford ag^t George Briggs contained in his complaint exhibited to this Court for fraudulently obtaining a bill for about £.20 upon the Acco^t of goods which s^d Briggs had before received and given a receipt for; The Court do order that upon Stanifords paying unto Briggs Fourteen Shillings two pence (which hee acknowledgeth to bee oweing to him) his bill is to bee void and each party to beare their own charge

ROGERS Fin^d 20^s

Gamaliel Rogers complain^d ag^t by the Clerkes of the market of Boston for affronting and abusing of them in the execution of their Office: Upon consideratⁿ of what was alleaged & proved ag^t him The Court Sentenc^d him to pay twenty Shillings in money fine to the County charge of prosecution and fees of Court standing committ^d &c.

ABBOTT Sent^a

Charles Abbot convict by his own confession in Court of Stealing from his ma^r Robert Walker Eighteen Shillings & five Shillings in money and behaving himselfe stubbornly Sentenced to bee whip^t with ten Stripes, and to pay unto his ma^r Forty nine Shillings money, which (with what hee hath already received back again) is 3^{ble} damages according to law, and to pay fees of Court standing committ^d &c.

Committee for TAY's Estate

It being represented to this Court that the Estate left by Iohn Tay late of Boston Taylor dece^d doth prove insolvant The Court have therefore impoured m^r Edw: Raynsford m^r Iames Whetcomb and m^r Iohn Hayward to bee a Committee for the taking in and Allowing of the claims made by the Credito^{rs} to that Estate, the s^d Committee to appoint time & place of meeting for that end, and all Creditors are required to bring their claims in to them by the next Court of this County, unto which Court they are to make their return that further order may bee taken therein.

Committee for dividing m^r COTTONS Farme

In Answer to the petition of m^r Increase Mather: The Court have appointed Deacon W^m Parke, m^r Tho: Weld & Iohn White Senio^r to bee a Committee for to Survey the Farme sometime the Rev^d m^r Iohn Cottons lying at Muddy River & to make report unto the County Court in April next; how it may bee equally divided into four parts, two for the eldest Son of the s^d m^r Cotton and unto each of his other two Children a Single part according to their Fathers Will.

The Court adjourned from Saturday the first unto Thursday the 6th of February. 1678. [565]

February: 6th Ann^o 1678.
The Court met by Adjournm^t

WHITE etc. Fin^d 20^s

Thomas White, Samuel Ravenscroft, Stiles Dradey & George Matthews complained of for breach of the peace in Assailing of Cap^{tn} Lemoign and Assailing and wounding of Peter Dillen: on consideration of what was alleaged and proved in the case, The Court Sentenced them to pay twenty Shillings in money fine to the County, twenty Shillings in money to s^d Dillen with the charge of his cure and fees of Court: And order that they deliver unto Cap^{tn} Lemoigne his Sword, belt and hatt again within 24 houres next comming or

pay him ten pounds in money The Sword Belt and hatt were forth-with deliurd in Court.

[See case of White, etc., v. Lemoigne, above, p. 988.]

MARSHCROFT Admonish't & fin^d ten grotes

Daniel Marshcroft of Roxbury present^d for travelling to Boston on the Sabbath dayes, and for excessive drinking, which hee owned in Court. Sentenced to bee Admonish't for his prophanation of the Sabbath, and to pay ten grotes in money fine to the County for excessive drinking & fees of Court, standing committ^d &c.

PHILLIPS Fin^d 15^s

Nicholas Phillips present^d for takeing Tobacco in the Streete and for reviling and abuseing of m^r Iohn Conney a grandjuryman upon his reproving of him for it; which was testified by s^d Conney in Court. Sentenced to pay ten Shillings in money fine to the County for Smoking in the Street five Shillings in money for reviling of the grandjuryman ten Shillings to s^d Conney with charges of prosecution and fees of Court standing committ^d &c.

SHILSTON Fin^d 20^s

Ann Shilston present^d and convicted by her own confession in Court of Curseing: Sentenced to bee whip't with ten Stripes or to pay twenty Shillings in money fine to the County and fees of Court standing committ^d &c.

SWINTON Sent^a

Thomas Swinton convicted by his own confession in Court of Stealing bedding and cloathing from George Manning valued at Fifty Shillings. Sentenced to bee whip't with ten Stripes in the house of correction and to pay unto s^d Manning five pounds in money being 3^{b1e} damages according to law and to pay fees of Court standing committed untill the Sentence bee performed.

CUTTING Sent^a

Robert Cutting convict^d by his own confession in Court of stealing sundry goods from Thomas Matson valued at three and twenty Shillings and six pence Sentenced to bee whip't with fifteen Stripes

and to pay to Tho: Matson three pounds ten Shillings six pence money being 3^{ble} damages according to law s^d Matson defalking thereout the value of what goods hee hath rece^d again and to pay fees of Court standing committ^d &^a [566]

CLOIS Fin^d £.5: respit^d

Iulian Clois Widdow convicted by her own confession in Court for Selling beare and Cider without licence Sentenced to pay five pound in money to the County according to law.

Execution respited untill the next Generall Court.

PHIPPEN his Estate Setled

It's ordered that the Estate of Benjamin Phippen late of Boston dece^d intestat it consisting mostly of a house and land bee thus setled and proportioned Viz^t That Elinor his Widdow enjoy the whole Estate for her own and Childrens maintenance untill the youngest Children of s^d Phippen come of age, and that then the Estate bee thus proportioned, the thirds to the Widdow during life, and the remaind^r equally among the Children excepting to the eldest Son a double portion, It appearing by testimony produced before the Court to bee the minde of the dece^d so to have disposed his Estate.

CLEARE his Estate order^d

It's ordered that the Estate of Iohn Cleare Senio^r late of Boston dece^d bee thus Setled and proportioned Viz^t The Court do declare that by what at pu^rsent appears unto them by testimony produced, the new house in which Rich^d Cleare late dwelt doth belong unto Iohn Foy in right of his wife, the onely Childe left by s^d Iohn Cleare, And that the remaind^r of the Estate (debts being first paid) bee equally proportioned unto the Six grand Children of s^d Cleare.

LUX his Estate ordered

In Answer to the petition of Iohn Lux, It's ordered that Sarah Dinsdale wife of William Dinsdale late Widdow of Iohn Lux junio^r dece^d intestate, do perfect the Inventory of her s^d Husbands Estate, and that then Shee pay out the one halfe of the cleare Estate unto

her Father in law Iohn Lux in behalfe of his Children, hee giving Security for the same the other halfe of the Estate is granted unto the s^d Sarah Dinsdall and her heires for ever.

CALMAN under a penalty

Alexander Calman a Quaker being presented to this Court by the Select men of Boston for residing in this Town contrary to the minde of the Select men, and not being admitted into the Colony: The Court ordered him to depart this Colony within one month next following under the penalty of Five pounds in money, and not to return again under the like penalty.

FRANCIS & BAILY Sent^a

Susanna Francis and Roger Baily prosecuted by Tho: Wells for stealing severall goods from him to value of Fifty Shillings, Sentenced to pay unto s^d Wells Five pounds in money being 3^{b^{le}} damages according to law.

Execution issued. 13^o feb: 78.

SNOW her Estate Setled

It's ordered that the Estate of Mehitabel Snow singlewoman dece^d intestate (after the paym^t of debts & her funerall charges) bee equally proportioned between her Brother Samuel Snow and her two Sisters Fisher and Wright. [567]

William Chard of Waymouth upon a motion from the Town was restored to his office of Clerke of the Writts.

Committee ab^t CLEARES Estate

It being represented to this Court that the Estate of Rich^d Cleare late of Boston Cordwainer dece^d doth prove insolvant The Court have appointed L^t Daniel Turill and L^t Richard Way to bee a Committee for the taking in and allowing of the claims of the Creditors to that Estate, and all Creditors are required to enter their claims with the s^d Committee by the next Court of this County, The Committee appointing time and place of meeting for that end, and making their return to the s^d Court that so there may bee a proportioning of the Estate.

AVIS to HALGESON

William Avis personally appearing before the Hono^rd John Leverett Esq^r Gov^r and Edw^d Tyng Esq^r Assist. 18^o Feb^r 1678. confessed Iudgem^t ag^t his Estate and person unto Jngeman Halgeson for Five pound one Shilling money in full of a bill on file with charge.

attests. Js^a Addington Cler.

Execution issued. 19^o Feb^r 1678/9.

CAREY to KNOTT

Peter Carey of Marblehead Fisherman appearing before Simon Bradstreet Esq^r Dep^t Gov^r and Edw^d Tyng Esq^r Assist 20th March: 1678/9. confessed judgem^t ag^t his Estate & person unto Richard Knott of Marblehead for thirty pounds to bee paid in fish at price currant.

attests. Js^a Addington Cler

Execution issued. 21^o march. 1678/9.

Endors't upon Courts order as in p: 536.

Boston: 3^d January. 1678.

Then Rec^d of Edward Tyng Esq^r Seventy three pounds money in part and per vertue of the within written Court order.

Charles Lidgett.

Witness James Oliver

Nathaniel Peirse.

Captⁿ Oliver & Nathaniel Peirse made oath as wistnesses of m^r Lidgetts Signing the above written.

Before the County Court.

pro May. 1679. Attests. Js^a Addington Cler

Entred at Request, of m^r Tyng.

per Js^a Addington Cler [568]

At A County Court held at Boston 29^o April Ann^o 1679.

Present

SIMON BRADSTREET Esq^r Dep^t Gov^r

EDW^d TYNG
JOSEPH DUDLEY } Esq^{rs}

Grandjury the same wth the former Court.

Jury of Tryals Sworn

m^r John Hayward
L^t Rich^d Way
Jonathⁿ Bridgeham
Edw^d Allen

Robert Peirpoint
Nathan^{ll} Glover
Henry Wilson
Will^m Avery

Martin Sanders
Will^m Hearsey
Joseph Dyer
Thomas Boyden

[USHER's Executors v. BISHOP]

Hezekiah Vsher & Comp^a Exec^{rs} to the last Will & Testam^t of Hezekiah Vsher dece^d plaint^s cont^a Samuel Bishop of Ipswich Defend^t in an action of debt of twenty five pound five Shillings and five pence in money due by Booke wth damages. . . . The Iury . . . found for the plaint^s twenty five pounds five Shillings five pence and costs of Court Allowed twenty two Shillings.

Execution issued. 5. may. 1679.

This Action was tryed at the last County Court but Judgem^t not untill now entred according to law, The Defend^t being out of the Colony.

[SHARP v. BISHOPS]

John Sharp Assigne of Sarah Gilbert plaint. cont^a Samuel Bishop, Iohn Bishop and Benjⁿ Bishop or either of them Defend^{ts} in an Action of debt of two hundred and twelve pounds money due by bond. dat^d 21^o April. 1674. under the hands & Seales of the s^d Samuel, John & Benjⁿ Bishops, wherein they are jointly & severally bound for the payment thereof as by the s^d bond may more fully appeare with damages. . . . The Iury . . . found for the plaint. two hundred & twelve pounds money forfeiture of the bond & costs of Court At request of the plaint. and according to the payments by him acknowledged to have been made upon the s^d bond The Court chancered this Forfiture to twelve pounds in money and costs of Court allowed thirty Shillings & Seven pence

Execution issued. 5^d May. 1679.

This Action was tryed at the last County Court, but Judgem^t not untill now entred according to law, The Defend^t being out of the Colony.

PALMER cont^a MIDGLEY

Lisle Palmer or his lawfull Attourney plaint. cont^a the goods monys or Estate of John Midgeley Defend^t for non payment of Sixteen pounds Eight Shillings and six pence or thereabout in money due by booke as may appeare wth damages: . . . The Iury . . . found for the plaint. Sixteen pounds eleven Shillings in money & costs of Court allowed twenty four Shillings three pence.

Execution issued 8th may. 1679.

This Action was tryed at the last County Court but Judgem^t not untill now entred according to law The Defend^t being out of the Colony. [569]

FOSTER cont^a ROBSON

John Foster plaint. cont^a Iohn Robson Defend^t in an action of debt of Seventy eight pound eight Shillings and one penny in money due by bill bearing date. August. 8th 1678. under the hand of the s^d Robson with damages: . . . The Jury . . . found for the plaint. Seventy Eight pound Eight Shillings one penny in money & costs of Court.

Execution issued. pr^o May. 1679.

This Action was tryed at the last County Court but Judgem^t not entred untill now according to law, The Defend^t being out of the Colony.

PITCHER cont^a WYATT

John Pitcher plaint. cont^a Nathaniel Wyatt Defend^t for not performing his covenant in not bringing sutable matter at place for the finishing a parcell of worke to bee done by the s^d John Pitcher nor paying the pay for doing the worke according to coven^t whereby the plaint. is damnified at least Seven pound, all which will more fully appeare by the cov^t dat^d 28. Sept^r 1677. . . . The Jury . . . found for the Defend^t costs of Court.

TOMLIN cont^a ALLEIN

William Tomline plaint. cont^a Henry Allein Defend^t The plaint. was nonSuted upon non appearance.

YOUNG cont^a SKINNER

John Young plaint. on Replevin cont^a Thomas Skinner Attourney to Major Iohn Talcot, John Wadsworth & Thomas Catline Defend^{ts} The Replevin & Evidences in the case produced being read and committed to the Jury, which are on file, The Jury . . . found for the Defend^t that the s^d John Young shall deliver one quarter part of the Katch Unity unto Major Talcot or order & one Eight part thereof to John Wadsworth or order within three months next insuing, with a proportionable share of s^d Katches Earnings, or else then pay to the s^d Owners Seventy five pounds in money & costs of Court. The plaint. appealed from this Judgement unto the next Court of Assistants, and put in security for prosecution thereof to effect.

MARSH Sent^a

John Marsh plaint. on Appeale from the Iudgement or Sentence of the Worpp^{ll} Simon Bradstreet Esq^r Dep^t Gov^r and Edw^d Tyng Esq^r Assist. dated. 14^o April: The Sentence Reasons of Appeale & evidences in the case produced being read & committed to the Jury which are on file, The Jury . . . finde a confirmation of the afores^d Sentence and add that the s^d Marsh shall make an acknowledgement of his offence to the Satisfaction of this [570] Honor^{ble} Court and party agreived, or else to pay ten pounds in money to m^r James Brading and costs of Courts.

ALLEIN &c^a cont^a TOMLIN

Henry Allein & Comp^a plaint^s cont^a William Tomlin Def^t in an action of reveiw of a case tried at the County Court held at Boston in July last, where the s^d Tomlin obtained Judgem^t ag^t the s^d Allein & Comp^a costs of Court to the plaint^s damage: . . . The Jury . . . found for the Defend^t costs of Court: The plaint. appealed from this Judgem^t unto the next Court of Assistants & put in Security for prosecution thereof to effect.

[S. F. 1765.8

The Deposition of Moses peirce aged. 25. yeares or thereabouts testifieth and Saith that sometime in the month of February in the year. 1677. I did buy a Servant boy of m^r Henry Alleine and Company and that at the same time William Tomlin did buy of s^d Alleine and Company one of the same Servants that came in the Vessell, and I did see the Jndenture signed and Sealed and deliurd for at

that time mine was Sealed also and I did understand by them then that s^d Tomlin was to pay to s^d Alleine and Company ten pounds in Ship blocks at money price and further Saith not.

Sworn in Court 29^o Aprill. 1679.

Attests Js^a Addington Cler

S. F. 1765.7

Know all men by these pu^rsents that I Iohn Meader of Boston in New-England Blockmaker have rec^d of William Tomling of s^d Boston Blockmaker the full Summe of ten pounds and is in full Satisfaction for a Servant namely John Waters which the s^d Tomling bought of m^r Iosiah Allein and which the s^d Alleyn hath accepted of my paym^t for As Witness my hand this twenty Eight day of Iune Ann^o Domⁱ One thousand Six hundred Seventy and Eight. &c^a

per me John Meader

Witness Jn^o Proutt

Tho: East

Testified upon the oath of Tho: East in Court. 30. April. 1679. that Jn^o Meader Signed the abouewritten discharge, John Proutt the other Witness being present at the same time.

Attests J A C

See case of same name, above, p. 93. Several attachments, powers of attorney, bills of costs, etc., and Tomlin's answer to Allein's Reasons of Appeal, are in S. F. 1765.1-10. The Court of Assistants (Records, i. 141) sustained Tomlin and awarded him 18s 4d costs.]

PURKIS cont^a WINDER &c^a

George Purkis Attourny to Laurence Baskervyle plaint. cont^a the goods or Estate late belonging unto John Winder Merch^t in the hands of John Palmer who married with Sarah the Relict & Adm^x of the s^d Estate or wheresoever else it may bee found: And the goods or Estate late belonging unto Robert Gibbs Merch^a in the hands of Jonath^a Curwin who married with Elizabeth the Relict & Adm^x of the Estate of the s^d Gibbs, Also the goods of James Whetcombe Merch^a them or either of them Defend^t for not paying the Summe of one hundred and thirty pounds good & lawfull money of England due by bond under the hands & Seales of s^d Winder Gibbs & Whetcombe dat^d 19th Febru^{ry} 1663. wherein they stand jointly & severally bound for the Summe afores^d with damages: . . . The Jury . . . found for the Defend^{ts} costs of Court. The plaint. Appealed from this Iudgem^t unto the next Court of Assistants & put in Security for prosecution thereof to effect.

[The letter of attorney from Lawrence Baskervyle of London to George Purkis is in S. F. 1795.6, with the following annexes:

To all that shall see these pu^sents or hear them to bee read S^r Thomas Davies Knight Lord Maior and the Aldermen or Senators of the Cittie of London send greet-ing Know yee that on the day of the date hereof in the Kings Majesties Court holden Before us in the Chamber of the Guildhall of the s^d Cittie personally came and appeared Thomas Pownsett of London Scrivener aged Fifty six yeares or thereabouts being a person well knowne & worthy of good Credit and did by his solemn Oath which hee tooke upon the holy Evangelists of Almighty God at the instance and request of Laurence Baskervyle Citizen & Fishmonger of London Before us then and there solemnly declare testify and depose to bee true That hee was present and did see Iohn Winder Robert Gibbs and Iames Whetcomb of London Merchants Signe Seale and as their act and deed deliver to the use of Samuel Proudlove and the s^d Laurence Baskervyle or either of them the Original bond or Obligation now produced in Court and showne unto him fair and uncanceled bearing date the nineteenth day of February one thousand Six hundred Sixty three of the penalty of one hundred and thirty pounds with condition for payment of Sixty Seven pounds five Shillings and four pence on the first day of March one thousand Six hundred Sixty four And this deponent as a witness of the Sealing & delivery of the s^d bond did set and Subscribe his name thereunto as in and by the same it doth appeare. Jn Faith and Testimony whereof wee the s^d Lord Maior and Aldermen the Seale of the Office of Maioralty of the s^d Cittie of London to these pu^sents have caused to bee put and appended And the afores^d Originall bond with a procuration Signed and attested by Anthony Wright of London Notary publick to bee hereunto annexed. Dated in London the Eight and twentieth day of August Ann^o Domⁱ 1677 and in the nine and twentieth year of the Reign of our Sovereign Lord Charles the Second by the grace of God King of England &c^a.

Wagstaffe

Vera Copia Attest^r Js^a Addington Cler

Noverint uniu^{rsi} per p^sentes Iohannem Winder Robertum Gibbs et Iacobum Whetcombe de London. Mercators teneri et firmiter obligari Samueli Proudlove et Lawrencio Baskervyle Civibz. et piscinars. Londin. in Centum et Triginta Libris bene et Legalis monete Angl. Solvend. eisd. Samueli Proudlove et Lawrencio Baskervyle aut [eor^m] alter seu eor^m cert. Attorn. Executor Administrator vel Assignat suis Ad quam quidem Solucionem bene et fidelr. faciend. obligamus nos et Quemlibet [nrm.] per se pro toto et in Solid. hereds. Executor et Administrator nros. ac ejuslibet nrm. firmiter per pu^sentes Sigillis nris. Sigillat Dat. Decimo nono die Februarij Ann^o Domⁱ 1663. Annoq. Regni Dm. nri. Caroli Secundi Dei gra. Angl. Scotiæ Franc et Hibniæ. Regis Fidei Defensor. &c^a Decimo Sexto.

The Condicion of this Obligation is such that if the above bound Iohn Winder Robert Gibbs & Iames Whetcombe or any of them their or any of their heires Exec^{ts} Adm^{rs} or Assignes do well and truly pay or cause to bee paid unto the abovenamed Samuel ProudLove and Lawrence Baskervyle or either of them their or either of their Exec^{rs} Adm^{rs} or Assignes at or in the now Shop of the s^d Samuel and Lawrence seuatuate in milke Street London the Summe of threescore and Seven pounds five Shillings four pence of lawfull money of England on the first day of March which shalbee in the year of our Lord One thousand Six hun-

dred Sixty and four and without any further delay fraud or Covin that then this Obligation to bee void and of none Effect or else to stand and remain in full force and virtue.

John Winder & a Seale
Robert Gibbs & a Seale
James Whetcombe & a Seale

Sealed & Deliurd in the pu^rsence of us:

John Bell: Will^m Stratford

Tho: Pownsett Scr.

Own^d in Court. 28^o Janur^o 78. by James Whetcombe. attests Js^a Addington Cler.

Vera Copia Attest^r Js^a Addington Cler.

Purkis' reasons of appeal are in S. F. 1795.5. They state that the bond was made to Proudlove and Baskervyle or either of them, or to the attorney or assignee of either of them, "soe y^t either of them dividually had sufficient power in themselues which they or one of them might legally assigne or Communicate to an other & it sayes; (vel Assignat Suis) Soe y^t none but in reason must beleue y^t the Assine or Attorney of either of the Principalls have power to Sue receiue & give Legall discharges in this Case."

The answer to the Reasons of Appeal (S. F. 1795.3) makes the following points. First, whatever was paid to Proudlove (the obligee who did not give the power of attorney) was paid on this bond; and the defendant had no reason to bring into court Proudlove's receipts as a defense inas-much as Proudlove was not named in the action. Second, the power of attorney was not good because it did not come from Proudlove, who was "first named in the bond, and in reason to be accounted Principle before m^r Lawrence Baskervyle, for soe it was in those dayes, that m^r Baskervyle was little knowne in London, and lookt upon onely as an inferior to m^r Proudlove." Third, the power of attorney is invalid because not signed by both principals; for "the words in the bond are (seu eor^m cert^m Attorn.) whereby it plainly appeares, that the power of Attorneyship is from both, and not divided." Fourth, Purkis (in the passage quoted above from his reasons of appeal) "by confusedly Joyneing the two words, Attorney, and Assignee together," tries to ignore the distinction in the bond that either principal could assign, but both must sign a power of attorney; "Because, though the bond sayes, (vel Assignatis suis) his Assignes); yett when it Speakes of Attorney, it sayes, (seu eor^m cert^m Attorn.) or the certaine Attorney of them, soe that . . . the onely full power of graunting Attornyship lyes in both of them conjunctly, . . . soe the Appealant had noe pwer to sue." The defendant's final point is, "the law, title Attachments, sayes, if the person and cause be rightly

understood, &c: But in this cause, by the attachment; the Defendant, without Revelation, or divination, (neither of which he yett hath) could possibly rightly understand, what he was sued for; untill the bond appeared in Court." The bond then showed the defendant that the suit was for money due to Proudlove and Baskervyle, but he was wholly unprepared to meet such a claim, having had no reason to produce Proudlove's receipts. If now cast, the defendant would lose the moneys already paid to Proudlove. The only reason for his not producing the receipts was the plaintiff's negligent or intentional omission to put Proudlove's name in the attachment as the law required to make the person and cause rightly understood. Therefore, the defendant hoped for a non-suit in the County Court; but when he was overruled, the jury, "according to their discretion & Judgement of the law," found for the defendant.

The Court of Assistants (Records, i. 141) found for the Winder estate, with 35*s* 10*d* costs.]

GROSVENNER cont^a HOLBROOKE

John Grosvenner plaint. cont^a Elizabeth Holbrooke the Relict & sole Executrix of John Holbrooke dece^d Defend^t for not delivering the value of two thirds of a parcel of hides, being about 52 in number to the value of £.43:2:6. or thereabouts, which were deliur^d to s^d Holbrooke or his order by s^d Grosvennor or his order on condition the s^d Grosvenner should have two thirds of those hides so delivered with the profits ariseing made in sufficient good Leather, whereby the plaint. is greatly damnified. . . . The Jury . . . found for the Defend^t costs of Court allow^d Seventeen Shillings.

GROSS cont^a COLLACOTT

Clement Gross or his Attourny plaint. cont^a Richard Collacot and Francis Johnson or either of them Defend^t for withholding or not paying the Summe of one hundred & twenty pounds due by bond under their hands & Seales dated. 6th January. 1670. with damages. [571] . . . The Jury . . . found for the plaint. one hundred and twenty pounds money damage forfeiture of the bond and costs of Court: At Request of the Defend^t and consideration of the payments already made The Court chancered this Forfiture to thirteen pounds eight Shillings & four pence money & costs of Court.

GREEN cont^a BEALE &c^a

William Green Inholder plaint. cont^a Nathanael Beale jun^r and Joshua Hobart of Hingham Defend^{ts} for not paying the Summe of ten pound in money due to the plaint. by bond or writing under the hands of s^d Beale and Hobart with damages: . . . The Jury . . . found for the plaint. ten pounds in money damage according to bill and costs of Court, At Request of the Defend^{ts} and by consent of the plaint. the Court chancered the above Summe unto Four pounds twelve Shillings five pence in money and costs of Court.

GIFFARD cont^a WALTER &c^a

John Giffard plaint. cont^a Thomas Walter & Richard Middlecott them or either of them Defend^{ts} as they are Agents and Attournys to John Wright John Williams & comp^a for withholding a debt due to the s^d Giffard from the said comp^a of a thousand pounds with the profits as by Articles &c^a. . . . The Jury . . . found for the Defend^{ts} costs of Court allow^d Five Shillings.

Execution issued 10th nov^r 1679.

[One of the series of cases about the Lynn Ironworks. See case of Williams v. Fogg, above, p. 685, and S. F. 1912.7.]

DELL cont^a CHILDE

Benjamin Dell plaint. cont^a John Childe Defend^t for not delivering according to bargain & promiss a Suite of Searge &c^a . . . The Jury . . . found for the Defend^t costs of Court allow^d eight Shillings Seven pence and p^d

BEALE &c^a cont^a JAY

Nathanael Beale Iun^r & Ioshua Hobart Iun^r of Hingham plaint^s cont^a Joseph Jay Defend^t to the value of twenty pounds money for s^d Jay's neglecting and refusing to give bond according to his promiss to the s^d Beale & Hobart upon their giving bond to pay William Green of Boston Inholder ten pounds in money upon the acc^o of the s^d Jay, the s^d Jay being under Execution with damages: . . . The Jury . . . found for the plaint^s ten pounds in money damage & costs of Court allow^d Forty Shillings.

Execut^a issued pr^o may. 1679. [572]

ALLEN cont^a KNIGHT

Jacob Allen plaint. cont^a Richard Knight & Hannah his wife as Shee is Executrix to the Estate of her former husband Hope Allen dece^d Defend^t in an accion of reveiw of a case tryed at the last County Court at Boston. 28^o January 1678. and for due damages: . . . The Jury . . . found for the plaint. that the s^d Knight shall sell the house late belonging to Hope Allen dece^d within three months next comming to the best advantage hee can and then shall pay to the plaint. a proportionable share both of the value of the house as it shalbee Sold for and movables as they were apprizd, according to will, or otherwise to pay the plaint. Forty five pounds Viz^t three fourths in money and one fourth in movables as they were apprizd, within four months next comming & costs of Court.

DOWDEN cont^a SEDGEWICK

Leonard Dowden plaint. cont^a Robert Sedgewick Defend^t The plaint. withdrew his Accion upon the Defend^t his acknowledgem^t of a Judgem^t in Court.

TURILL &c^a cont^a ATKINSON

Daniel Turill Sen^r & Thomas Walker Adm^{rs} to the Estate of Nathanael Blague dece^d plaint^s on replevin cont^a Theodore Atkinson Defend^t The pl^{ts} withdrew their Accion.

BENNETT cont^a MUZZEY

John Bennet & Humphry Davie as Attourny to Elisha Bennet plaint^s cont^a Benjamin Muzzey Defend^t for not paying the Summe of thirty pounds or thereabouts in money due to the s^d John & Elisha for detriment done to them by the s^d Muzzey unjustly keeping possession of their Farm the last year past at Rumney Marsh & not giving them Satisfaction; with damages, . . . The Jury . . . found for the plaint^s twenty pound in money damage & costs of Court.

HOLMAN cont^a ADDAMS

Samuel Holman plaint. cont^a Nathanael Addams jun^r Defend^t in an action of debt of Five pounds in money due by bill under the

hand and Seale of the s^d Addams dat^d 29th of may. 1678. wth damages: . . . The Jury . . . found for the plaint. five pound in money damage according to bill & costs of Court, Allow^d twenty one Shilling 4^d

Execution issued 3^d may. 1679.

LIDGETT cont^a MARE

Elizabeth Lidgett Widdow plaint. cont^a Henry Mare Defend^t for withholding the Summe of twenty five pounds ten Shillings due by bill dat^d 5th January. 1676. with damages. [573] . . . The Jury . . . found for the plaint. twenty five pounds ten Shillings in money damage according to bill and costs of Court.

BATEMAN &c^a cont^a CROW

Joseph How and Iohn Bateman Attournys unto W^m Beale and Elizabeth his wife plaint^s cont^a Christopher Crow Defend^t for non paym^t of the Summe of thirteen pounds in money due for Rent of an house which the s^d Crow hired of them, with due damages. . . . The Jury . . . found for the plaint^s thirteen pounds in money damage & costs of Court allow^d twenty six Shillings six pence.

Execution issued 3^d May: 1679.

KELLOND cont^a CHATWELL

Thomas Kellond plaint. cont^a Nicholas Chatwell Defend^t in an action of debt of twenty four pounds two Shillings and eight pence in money due by bill bearing date the first day of July. 1678. under the hand of the s^d Chatwell with damages; . . . The Iury . . . found for the plaint. twenty four pound two Shillings eight pence in money and costs of Court: thirty three Shillings 2^d

Vsher cont^a STODDARD

Hezekiah Vsher and comp^a Exec^{rs} of the last will of m^r Hez: Vsher dece^d plaint^s cont^a m^r Anthony Stoddard Defend^t The plaint. withdrew his Accion.

PHILLIPS cont^a LOWLE

Eleazer Phillips or his lawfull Attourney plaint. cont^a John Lowle Defend^t in an action of debt of ten pound nine Shillings and eleven

pence in money due by bill dat^d 16th Janur^o 1678. under the hand of s^d Lowle with damages, . . . The Jury . . . found for the plaint. ten pound nine Shillings eleven pence money damage according to bill & costs of Court

LYNDE cont^a HAUGHTON

m^r Simon Lynde plaint. cont^a Robert Haughton and Sarah Phippeny Widdow or either of them Defend^{ts} for neither paying the Summe of Forty nine pounds eight Shillings in money due to the plaint. the. 4th April: 1678 nor admitting (but obstructing him in) the Sale or disposall of a Warehouse wharfe & ground &c^a for the [574] effecting the s^d payment as per a writing or Instrum^t dated the third of April. 1676. wherein the s^d Robert Haughton and Sarah Phippeny stand jointly and severally obliged for the s^d payment, or the s^d Lyndes disposall of the pu^misses for the Satisfying himselfe the afores^d Summe with forbearance thereof and damages &c^a The Attachm^t being read the Defend^t objected ag^t the process that two actions were couched in it, The plaint. declared hee held to that of the Warehouse Wharfe ground &c^a. . . . The Jury . . . found for the Defend^{ts} costs of Court.

HUDSON cont^a IAY

Cap^{tn} W^m Hudson plaint. cont^a Jone Jay Exec^x of the last will of Tho: Jay, dece^d Defend^t according to Attachm^t The Estate attached appearing to bee none of Tho: Jay's but convayed away ever since the year. 1649. The plaint. was nonsuted & costs granted the Defend^t

LILLEY to SHEAFE

Edward Lilley appearing in Court confes't judgement against his person and Estate unto Sampson Sheafe for Seventeen pound thirteen Shillings three pence to bee paid in money according to bill on file under his hand.

Execution issued pr^o Iuly. 1679.

ROBBINSON to ALLEN

Nathaniel Robinson appearing in Court confes't judgem^t ag^t his Estate and person unto Benjamin Allein for Six pound twelve Shillings to bee paid in money according to bill on file with the costs.

Execution issued. 20th Aug^o 1679.

Committee ab^t ELKINS Estate

This Court being informed that the Estate left by Nathanael Elkin dece^d intestate doth appear to bee insolvant Adm^{con} whereof is committed unto his Father in law Major Richard Waldron, They have therefore impoured Cap^{tn} John Richards, m^r Iohn Ioyliffe and m^r Paul Dudley to bee a Committee for receiving and approving of the claims of the Creditors to the s^d Estate as the law directs that there may bee an equall proportioning of the same and all Credito^{rs} are Required to attend the s^d Committee (at time and place appointed by them) for the bringing in their claims, And there is allowed twelve months time to such Credito^{rs} as are beyond Sea and Six months to those in the Country; And all process in Law against the s^d Estate is hereby Suspended, And the Adm^r ordered forthwth to pay the charges expended in the Sickness and on the funerall of s^d Elkin, The Committee to make their return unto the County Court for Suffolke in April next. [575]

Order ab^t JAY's Estate

Whereas Cap^{tn} Ioshua Hobart Daniel Cushing and Tho: Andrews upon the petition of Ione Iay Exec^x of the last will of Thomas Iay were formerly impoured by this Court to act with and Assist the s^d Ione in her Execution of s^d will: The s^d Ione now appearing in Court declared that Shee wholly left the managem^t of s^d Estate unto the aforementioned Gentⁿ or any two of them, Shee promising not to obstruct them or to revoake anything they shall do in their prudence for the benefit of the Estate untill this Court or the Generall Court take further order; which the Court approve of and order that the s^d Gentⁿ do disburse for the necessary upholding of the Estate presenting their Acco^t thereof to this Court for allowance.

BICKNER his Estate ordered

Ensigne Tho: Bancroft formerly granted Adm^{con} of the Estate of Benjamin Bickner, is ordered to deliver the cleer Estate left by s^d Bickner (debts being first paid) unto his Sister Martha Bickner.

Freemen Sworn

John Toleman, Nathan^{ll} Glover, Iames Foster, Increase Sumner, Hope Clap, Iohn Baker and William Ryal of Dorchester; Ioseph Dyer,

Richard Phillips & Samuel Humphrys of Weymouth tooke the oath of Freedom of this Colony.

SEDGEWICK to DOWDEN

Robert Sedgewick personally appearing in Court confes't Iudgement against his Estate and person unto Leonard Dowden for Eleven pounds two Shillings and four pence to bee paid in money.

ORRIS to LYNDE

George Orris personally appearing in Court confes't Iudgement against his Estate and person unto m^r Simon Lynde for Five pounds Five Shillings six pence to bee paid in money according to bill on file with charges.

ELIOTT to CROSBY

Ioseph Eliott personally appearing in Court confes't Iudgem^t against his Estate and person for Four pounds two Shillings six pence to bee paid in money unto Ioseph Crosbey of Brantery being for Six barrels of Cider Sold him.

BARRETT his Estate ordered

It's ordered that the Estate of Iames Barret late of Boston Carpenter dece^d intestate amounting to one hundred Sixty three pounds cleere Estate bee Setled upon and confirmed unto Dorcas his Relict & Widdow for her own and Childrens maintenance & education [576] And that Shee pay out unto the three Children left by s^d Barret Sixty pound as they come of age. i. e. To the eldest Son thirty pound and to the other two Fifteen pounds apeice and the house and Land is hereby secured for payment of the Childrens portions unless the Widdow finde other good Security to the Courts Satisfaction.

LONG her Guardian

Mary Long appearing in Court made choice of her Father m^r Zechariah Long of Charlestown to bee her Guardian respecting some Estate given her by her Grand Father L^t Ioshua Tedd dece^d

BAKER his Estate ordered

It's ordered that the Estate of Ioseph Baker late of Boston Taylor dece^d intestate bee disposed according to the declaration of his minde witnessed by the testimony of Ionathan Jackson i. e. when his debts, Funerall and sickness charges were p^d hee gave his whole Estate to his Father and Mother, and if they left anything, after their decease to bee equally divided to his Brother and Sisters alike.

HILL his Estate ordered

It's Ordered that the Estate left by Israel Hill late of Dorchester dece^d intestate (debts due from the same first p^d out) bee equally proportioned between his Bretheren and Sisters being eight in number.

CURTICE Sent^a

Thomas Curtice charged by Sarah Tower for committing Fornication with her, by whome Shee saith Shee hath had a Childe and made oath in Court that hee and no man else is the Father of the Childe late born of her body begotten by him in Fornication. The Court Sentenced s^d Curtice to give bond of twenty pound with two sufficient Sureties for the payment of two Shillings six pence per weeke in money to bee p^d weekley to s^d Sarah Tower or her order towards the maintenance of her Childe from the time of its birth untill this Court take further order and to pay fees of Court standing committ^d &c^a

TOWER Sent^a Fin^d 40^s

Sarah Tower convict^d by her own confession in Court of committing Fornication with Thomas Curtice Sentenced to bee whip't with ten Stripes or to pay Forty Shillings in money fine to the County and fees of Court standing committ^d &c^a.

IEFFERIES Sent^a

Ieffery Iefferies charged by Mary Punnell for committing Fornication with her and made oath in Court that hee and onely hee was the Father of a bastard Childe late born of her body: The Court Sentenc^d s^d Jefferies to give bond of twenty pounds money with two Sufficient Sureties for payment of two Shillings six pence [577] per

weeke in money to bee p^d weekely to Mary Punnell or her order towards the maintenance of the Childe late born of her body from the time of its birth untill this Court take further order and to pay fees of Court standing committ^d &c^a.

PUNNELL Sent^a

Mary Punnell convict^d by her own confession in Court of committing Fornication with Jefferie Jefferies Sentenced to bee whip't with ten Stripes or to pay Forty Shillings in money fine to the County and fees of Court and prison standing committ^d &c^a.

PEASE Fin^d 40^s

Abigail Pease convict^d by her own confession in Court of committing Fornicat^a having had a bastard Childe by Ioshua Bill since dece^d Sentenc^d to bee whip't wth ten Stripes or to pay Forty Shillings in money fine to the County and fees of Court standing committ^d &c^a

MASON Fin^d 6^l 15: 0.

Ioseph Weebish Indian accused the wife of Sam^{ll} Mason for selling him two gills of Liquors, and Ioseph Indian accused her of selling him three pints of strong Liquors the s^d Mason and his wife were both Summoned & appear^d the Indians continuing stedfast in their charge & the s^d Sam^{ll} Mason being put upon it to purge himselfe by his oath, refused it whereupon the Court Sentenc^d him to pay Six pounds Fifteen Shillings in money as a fine to the County according to Law and fees of Court standing committ^d &c^a Afterward upon his petition The Court respited the execution of this Sentence in order to his petitioning the General Court and discharged him from the prison that so hee might attend the same.

ROGERS his Guardian

Cap^{tn} Thomas Fiske & Thomas Patch both of Wenham are allowed Guardians to William Rogers Son of W^m Rogers formerly of Boston marrin^r dece^d they giving bond for the faithful performance of their trust.

TWITCHEL Fin^d £.3.

Ioseph Twitchell and Lydia his now wife convict^d by their own confession in Court of committing Fornication before marriage, Sentenc^d to pay three pounds in money fine to the County & fees of Court standing committ^d &c^a

REDDISH Sent^a

Elinor Reddish convicted by her own confession in Court of stealing sundry goods from m^r Henry Deering to value of 24^s 7^d and from m^{rs} Rhoda Tidd £.7:19.7. Sentenced to bee whip't with Fifteen Stripes and to pay unto m^r Deering three pound thirteen [578] Shillings nine pence money treble damages and to pay unto m^{rs} Tidd twenty three pound Seventeen Shillings nine pence money treble damages according to Law (either of them deducting thereout the value of such goods as they have rec^d back again) and to pay fees of Court standing committ^d &c^a The abovenamed Elinor not having wherewith to Satisfy this Iudgem^t or Sentence The Court impower m^r Deering & m^{rs} Tidd to make Sale of her to any of the English Nation not exceeding Seven yeares.

attests. Js^a Addington Cler. 15^o may. 1679.

MARTYN Fin^d £.5.

Mihel Martyn convicted by his own confession in Court of Selling strong beer without Licence, Sentenc^d to pay five pound in money fine to the County according to Law and fees of Court.

Execution issued. 26^o Aug^o 1679.

KYNDE Fin^d £.5.

Arthur Kynde convicted by his own confession in Court of selling strong beere without Licence, Sentenced to pay Five pound in money fine to the County according to Law and fees of Court.

Execution issued 26^o Aug^o 1679.

GRIDLEY Fin^d 10^s

Ioseph Gridley convicted by his own confession of delivering strong Liquors to Joshua Rice a drunken person Sentenc^d to pay ten Shillings in money fine to the County and fees of Court.

Freemen Sworn

m^r Increase Mather m^r Samuel Willard, Elnathan Chauncey, Samuel Sewell, Ioshua Gee, Gilbert Cole, and Robert Butcher all of Boston and Samuel Phips of Charlestown tooke the oath of Freedom.

NORDEN to HUBBARD

Samuel Norden appeared in Court pr^o may 1679 and confes't Judgem^t against his Estate & person unto m^r Iohn Hubbard for Seventeen pounds Seventeen Shillings six pence to bee paid in money.

ATWELL Sent^a

Ione Atwell convicted by her own confession in Court of committing Fornication & stealing from m^{rs} Iane Sparey severall things to value of twenty Seven Shillings six pence Sentenc^d to bee whip't with twenty Stripes and to pay unto m^r Iohn Sparey Husband of the aforementioned Iane, Four pounds two Shillings six pence in money being 3^{b^{le}} damages according to Law hee defalking thereout the value of what goods are return^d & to pay fees of Court &c^a And if Shee have not wherewith to pay hee is impoured to make Sale of her to any of the English Nation not exceeding three yeares for his own [579] Satisfaction and defraying of her charges.

GILFORD Fin^d 10^s

Paul Gilford of Hingham convicted of affronting the Constable in the Execution of his Office Sentenc^d to pay ten Shillings money fine to the County charges of prosecution & fees of Court standing Committ^d &c^a

GEORGE Fin^d £.5.

Elizabeth George Widdow convicted by her own confession in Court of keeping a house for publique entertainment & selling strong drinke without licence Sentenc^d to pay Five pounds in money fine to the County according to Law & fees of Court.

GALLOP his Estate ordered

Jt's Ordered that the Estate left by Samuel Gallop formerly of Boston dece^d intestate amounting by Inventory to three hundred

thirty one pound twelve shillings bee thus proportioned between the Widdow & five Children the Widdow to have the thirty one pound twelve Shilling to her own proper use for ever And the one third of the Rent or improvement of the house & Land during her life for her own maintenance and education of her younger Children, And that the remainder of the Estate (together with the Widdows one third at her decease) bee equally proportioned amongst the Children except to the eldest Son a double portion and that hee hath liberty paying the younger Children their proportionable parts of the house & Land upon a due valuation, to purchase the house & Land.

BRADLY Fin^d £.5.

Nathan Bradley convict^d by his own confession in Court of Selling Cider without Licence, Sentenc^d to pay Five pounds in money fine to the County according to Law and fees of Court: The Court respit^d the present Execution of this Sentence.

MILLS Fin^d 10^s

John Mills of Brantery present^d by the Grandjury and convict^d by his own confession in Court of excessive drincking Sentenc^d to pay ten Shillings money fine to the County & fees of Court.

ROSE Admonish't

Roger Rose convict^d by his own confession in Court of speaking words reflective on the late Hono^rd Gov^r Leverett dece^d on consideration whereof and the s^d Rose his humble acknowledgem^t The Court Sentenc^d him to bee admonish't and to pay fees of Court.

PEIRSE Admonish't

Nehemiah Peirse prosecut^d by Iabez Salter Constable with demanding two Shillings for the Serving of a warrant from the Hono^rble Deputy Gov^r which Peirse owned before the Court; but not being able to make good [580] his charge was admonish't and ordered to pay fees of Court.

WRIGHT ordered to bee Sold

George Wright covenant Serv^t to Elder John Bowles of Roxbury complained of for misdemeanors and stealing money from his s^d

ma^r the s^d Elder Bowles is impoured to dispose of him out of the Country not exceeding Seven yeares.

BRISCO Fin^d £.5.

Benjamin Brisco convict^d by his own confession in Court of re-tailing Cider contrary to Law without licence Sentenced to pay Five pounds in money fine to the County and fees of Court standing committ^d &c^a And is disenabled for Selling Strong Liquors for the future.

CLEMENT his Estate ordered

It's ordered that the Estate left by Samuel Clement late of Boston dece^d intestate amounting according to Inventory to two hundred twenty six pounds two Shillings bee thus proportioned, Deborah his late Widdow to enjoy the whole for the education of her Children untill they come of age successively and that then Shee pay out unto the eldest Son of s^d Clement Seventy two pound five Shillings and unto the other two Children thirty Six pound two Shillings six pence apeice when they come of age or marry the Son to have the house and Land at apprizem^t in the Inventory if hee choose it, hee paying the overplus thereof towards the other Childrens portions; And order that the Administratrix do binde over the house & Land and farther Security to value of one hundred pounds to make good the Childrens portions.

[For developments over ten years later, see S. F. 2741.]

GILBERT Sent^a

William Gilbert prosecuted by Constable Iohn Raynsford for affronting and strikeing of him w^a hee was in the Execution of his Office and being objected against by the Select men of Boston for resideing in this Town without their approbacion or Licence Sentenc^d to pay twenty Shillings money to Constable Raynsford, and Four pounds money fine to the County unless hee depart the Town of Boston to live elsewhere within one month next following and to pay fees of Court.

TOMLIN Fin^d 20^s

Iohn Tomlin convict^d by his own confession in Court of Stealing twenty six Shillings money from In^o Bryant, said Bryant being Satis-

fied with the receipt of his principall money again, But for the offence against the Law, The Court Sentenc^d to bee whip't with ten Stripes or to pay twenty Shillings money fine to the County & fees of Court standing committ^d &c^a

MERRIFEILD Sent^a

Abigail Merrifeild convict^d by her own confession in Court of committing Fornication & having a bastard [581] Childe, begotten (as Shee saith) by Ioseph Belcher, Sentenced to bee whip't with twelve stripes or to pay three pounds money fine to the County & fees of Court standing committ^d &c^a

TURNOR & NORMAN Fin^d 40^s

Ephraim Turnor & Thomas Norman bound over to this Court to answer for their prophanation of the Sabbath being found in a Tavern in the time of publique worship with Liquor standing before them, and m^r Norman for abuseing and mocking the Worpp^l m^r Tyng. on consideration of the case The Court Sentenc^d the s^d Ephraim Turnor to pay ten Shillings in money fine to the County & fees of Court And s^d Norman to pay thirty Shillings in money fine & fees of Court standing committ^d &c^a.

BROOKING Fin^d £.5.

Iohn Brooking convict^d by his own confession in Court of Selling Strong beere and Cider without Licence Sentenc^d to pay Five pounds in money fine to the County according to Law and fees of Court, and is deprived of the benefit of his present Licence.

PORTESS his discharge

Upon Request and Certificate from Cap^{tn} Iames Oliver, Robert Portess is discharged from attending ordinary traynings, hee keeping two good fire Armes liable to the veiw of the Clerke and alwaies ready fix't for the Country's Service.

Order to m^r COLLACOT about HAWKINS money

The Court considering the necessity of Thomas Hawkins and his wife, do judge meet to order m^r Collacot forthwith to pay the full

remainder of what monys are in his hands belonging to the s^d Hawkins (by order of the Gen^{ll} Court and left to this Courts disposition) unto Rebecca the wife of s^d Tho: Hawkins for the releife of her Selfe & Family. 2^d may. 1679.

LARGYN his Discharge

Upon Certificate from Cap^{tn} Iames Oliver, Henry Largyn by reason of his age poverty and Lameness is freely discharged from attending upon ordinary traynings.

BLAKE his Discharge

Upon Certificate from Serj^t Robert Badcock William Blake Sen^r of Milton is discharged from attending ordinary Traynings by reason of his age and infirmities of body, provided hee keepe three good fire Armes in his house liable to the Clerk's veiw to bee alwaies in a readiness for the Country's Service.

DIKE his Discharge

Upon Certificate from Serj^t Robert Badcock, John Dike of Milton is discharged from attending ordinary traynings by reason of his age and other infirmities of body hee being alwaies provided of Armes according to Law. [582]

Boston Licences.

Tho: Bill had his Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile beer & Cider, and an addition made thereunto for wine, who gave bond for his observance of the Laws.

Tho: Sexton had his Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile beer and Cider, who gave bond for his observance of the Laws.

William Norton had his Licence renewed to keepe a house of publique entertainment for the year ensuing to retaile beer and Cider, who gave bond for his observance of the Laws.

Cap^{tn} William Wright had his Licence renewed to keepe a house of publique entertainm^t for the year ensuing to retaile beer Cider & wine, who gave bond for his observance of the Laws.

William Kent had his Licence renewed to keepe a Cookes Shop for the year insuing, and to retaile beer Cider and wine, who gave bond for his observance of the Laws.

Iohn Keen had his Licence renewed to keepe a Cookes Shop for the year insuing and to retaile beer Cider and wine, who gave bond for his observance of the Laws.

Rebecca Winsor had her Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile beer and Cider, who gave bond for hir observance of the Laws.

Andrew Neale had his Licence renewed to keepe a house of publique entertainment for the year insuing to retaile beer and Cider, who gave bond for his observance of the Laws.

Arthur Kynde had his Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile beer and Cider, who gave bond for his observance of the Laws.

Robert Cox had his Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile beer and Cider (provided W^m Tower looke after the house) who gave bond for observance of the Laws. [583]

Mihel Martyn being approved of by the Select men was Licenced to keepe a house of publique entertainm^t to retaile beer and Cider for the year ensuing who gave bond for his observance of the Laws.

Iohn Viall Iun^r being approved of by the Selectmen was Licenced to keepe a house of publique entertainm^t for the year insuing to retaile beer Cider & wine, who gave bond for his observance of the Laws.

William Pollard had his Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile beer and Cider, who gave bond for his observance of the Laws.

Constant Mattock had her Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile beer & Cider & her Husband gave bond for her observance of the Laws.

Tho: Wheeler had his Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile beer Cider and wine, who gave bond for his observance of the Laws.

Nicholas Wilmot had his Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile beer and Cider; who gave bond for his observance of the Laws.

Francis Hudson had his Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile beer Cider and wine, who gave bond for his observance of the Laws.

Cap^{tn} W^m Hudson had his Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile beer Cider and wine, who gave bond for his observance of the Laws.

Phoebe Blanton had her Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile beer and Cider, who gave bond for her observance of the Laws.

Nathanael Bishop had his Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile beer and Cider; who gave bond for his observance of the Laws.

John Bull being approved of by the Selectmen was Licensed to keepe a house of publique entertainm^t for the year insuing to retaile beer and Cider, who gave bond for his observance of the Laws. [584]

John Turnor had his Licence renewed to keepe a house of publique entertainm^t for the year ensuing to retaile beer Cider and wine, who gave bond for his observance of the Laws.

m^{rs} Iane Bernard had her Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile beer and Cider, who gave bond for her observance of the Laws.

John Sparrey had his Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile Coffee and Chocolatta with the addition of Cider; who gave bond for observance of the Laws.

Anne Puglice had her Licence renewed to distill & retaile strong waters for the year insuing and her husband gave bond for her observance of the Laws and that Shee should Sell any to any of the Inhabitants of the Town to bee dranke in her house.

Thomas Smith had his Licence renewed to distill & retaile strong waters for the year insuing, who entred alike bond as above.

Ioseph How had his Licence renewed to retaile strong waters for the year insuing, who gave like bond as above.

Nathanael Robinson had his Licence renewed to retaile strong waters and wine for the year insuing, who gave bond for observance of the Laws.

L^t Richard Way had his Licence renewed to retaile wine and strong Liquors out of dores for the year insuing, who gave bond for observance of the Laws.

William Coleman had his Licence renewed for the year insuing to retaile strong waters by the gallon pottle or quart to Seamen that are bound to Sea and to Country people, who gave bond for observance of y^e Laws.

Rebecca Hawkins upon approbation from the Select men was licensed to sell wine and strong waters by retaile out of dores for the year insuing, and bond was given for her observance of the Laws.

L^t Iohn Smith of Winnisimmet had his Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile wine beer Cider and Liquors, who gave bond for his observance of the Laws. [585]

CHAMBERLYNS Guardians

William Chamberlyn of Hull is granted to bee Guardian unto Nathanael, Mary and Benjamin Chamberlyn, three of the Children of William Chamberlyn late of Hull dece^d hee giving bond according to law.

John Chamberlyn is granted to bee Guardian to his Brother Joseph Chamberlyn Son of W^m Chamberlyn late of Hull dece^d hee giving bond according to law.

Job Chamberlyn is granted to bee Guardian to Freedom Chamberlyn and John Mills is granted Guardianship of Sarah Chamberlyn, two of the Children of W^m Chamberlyn late of Hull dece^d they giving bond according to law.

[Liquor Licenses, continued]

Ioshua Fisher of Dedham had his Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile beer Cider and wine, who gave bond for observance of y^e Laws.

L^t Samuel Ruggles of Roxbury had his Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile beer Cider & wine, who gave bond for observance of the Laws.

Iohn Daniel of Milton had his Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile beer Cider and wine, who gave bond for observance of the Laws.

Nathanael Beale of Hingham had his Licence renewed to keepe a house of publique entertainm^t for the year insuing to retaile beer Cider & wine, who gave bond for observance of the Laws.

John Iacob of Hingham had his Licence renewed to keepe a house of publike entertainm^t for the year insuing to retaile beer Cider and wine, who gave bond for observance of the Laws.

Isaac Lobdell of Hull had his licence renewed to keepe a house of publike entertainm^t for the year insuing to retaile beer Cider and wine, who gave bond for observance of the Laws.

Samuel Barbur of Medfeild had his Licence renewed to keepe a house of publike entertainm^t for the year insuing to retaile beer Cider and wine. [586]

John Mills of Brantery had his Licence renewed to keepe a house of publike entertainm^t for the year insuing to retaile wine beer and Cider.

Ioseph Dyer of Waymouth had his Licence renewed to keepe a house of publike Entertainm^t for the year insuing to retaile wine beer and Cider; who gave bond for observance of the Laws.

The Court Adjourned unto Thursday. 15^o may. 1679.

GIDLEY to WING

Mary Gidley Widdow Adm^x of the Estate of her late Husband Henry Gidley of Chelmsford dece^d appeared before the Honor^{ble} Simon Bradstreet Esq^r Dep^t Gov^r and Edw^d Tyng Esq^r Assist. 10: may. 1679. and confes't Iudgement against the s^d Estate in her hands unto Iohn Wing of Boston for twelve pounds nineteen Shillings to bee paid in money.

as attests. Js^a Addington Cler.

Execution issued. 13^o may. 1679.

15^o May Ann^o 1679.

The Court met by Adjournm^t

Iohn White Sen^r and Ioseph White his Son both of Muddy River tooke the Freemans Oath.

FORREST Sent^a

Archuball Forrest convicted of being in bed with Iulian wife of Richard Knight, Sentenced to bee severely whip't with thirty stripes and to pay fees of Court standing committed &c^a

KNIGHT Senta

Iulian Knight for being found in bed with Archubal Forrest Sentenced to bee severely whip't with twenty stripes and to pay fees of Court standing committ^d &c^a

Committee ab^t PICKERINGS Estate

Cap^{tn} Tho: Brattle and m^r In^o Hayward are appointed a Committee to take in and allow of the claims of the Creditors to that small Estate is left by m^{rs} Sarah Pickering dece^d and after the payment of the whole charge of her Sickness and Funerall according to Acc^o brought in to the Court amounting to £.9:13:1. to proportion the Remaind^r [587] Amongst the Creditors and to appoint time and place of meeting with the Creditors for the ends afores^d and to make their Return unto the next Court of this County.

The Court Adjourned unto Thursday 22^o May: 1679.

The Court met by Adjournm^t 22^o May. Ann^o 1679.

IONES to CLARKE

Robert Iones of Exitor confes't judgem^t against his Estate and person unto Major Thomas Clarke of Boston for Eighty 8 thousand Four hundred Seventy two foote of boards & planke and two and twenty pound twelve Shillings to bee paid in money according to Acc^o on file.

Execucion issued. 23^o may 1679.

Freemen Sworn

Iosiah Chapen, Ioseph Pennyman, Ioseph Parmiter, Sam^l Pennyman and Steven Paine all of Brantery tooke the oath of Freedom.

M^{rs} HILTON admitt^d Adm^x of WILLIAMS's Estate

At Request of m^r Samuel Nowell m^{rs} Mehitabel Hilton of Charlestown is joined with Iohn Williams in Adm^{con} of the Estate of her Brother in Law Hugh Williams dece^d Shee giving bond to Administer the same according to Law and to bee accountable therefore unto the Court for this County.

Order for BELCHERS Acc^o

Katharin Belcher Relict and Adm^x of the Estate of Gregory Belcher formerly of Brantery dece^d neglecting to bring in an Acc^o of her Adm^{con} unto this Court according to the order of the County Court in Ianur^o last: The Court do now order that Shee and her Sureties do bring in an Acc^o of the s^d Adm^{con} unto the Clerke of the Court within one month next following on penalty of the Forfiture of their bonds.

CLAP his Discharge

Nicholas Clap of Dorchester by reason of age & other infirmities of body is discharged from attending of ordinary Traynings, hee keeping two good fire Armes in his house upon his own Acc^o besides his Sons and Serv^{ts} ready fix't for the Country's Service according to Law & liable to the Clerkes veiw.

BROWNINGS Discharge

Upon Certificate under the hand of m^r Iohn Cutler Chyrurgion that Ioseph Browning of Boston hath an infirmity in his Armes, which makes him uncapable of exerciseing or bearing of Armes, The Court do freely acquit him from attending Ordinary Traynings.

Treasuro^{rs} Fees Setled.

The Court declare their sence of the Law respecting the County Treasuro^{rs} fees that hee ought to have the Allowance of twelve pence in the pound upon the receipt of [588] all monys comming into his hands, and do order that hee present his Acco^{ts} unto the next Court of this County.

SANDYS his Estate ordered

For a Setlement of the Estate left by Iohn Sandys formerly of Boston dece^d intestate, It's ordered that Ann his Relict (now Ann Iones) enjoy the whole Estate left by her s^d husband Sandys (debts being first paid) to her own use, Shee paying thereout to the Childe Shee had by her s^d Husband Sandys one hundred pounds in money at the day of her marriage or when Shee comes of age, and the houses and Land are ordered to lye as Security for the same, Shee taking care and being at the charge of the Child's education untill that time.

WAITE appoint^d marshall

Return Waite is henceforward appointed to bee a Marshall for the County of Suffolke.

SMITH to IONES

Katharin Smith Widdow Relict and Exec^x of the last will of Quarter Master In^o Smith late of Dorchester dece^d personally appearing before the Worpp¹¹ Thomas Danforth Esq^r Dep^t Gov^r and Humphry Davie Esq^r Assist. 5^o Iune. 1679 confes^t judgement against the Estate left by her s^d husband in her hands for one hundred and Fifty pounds money due to Isaac Iones of Dorchester, being for so much hee paid for redemption of part of the s^d Estate from under mortgage to the Over Seers of the last will of m^r Henry Webb formerly of Boston dece^d in behalfe of Mehitabel Sheafe his grand daughter dat^d 14th Iune: 1661.

as attests. Js^a Addington Cler.

Execucion issued 6^o Iune: 1679.

ELLIOTT to THACHER

Ioseph Eliott personally appearing before the Worpp¹¹ Daniel Gookin Esq^r and Nathanael Saltonstall Esq^r Assist^s 18^o Iune. 1679. confest Iudgement against his Estate & person for the Summe of Eleven pounds two Shillings six pence to bee paid in money to m^{rs} Margaret Thacher Relict and Adm^x of the Estate of m^r Tho: Thacher dece^d due for house Rent.

as attests Js^a Addington Cler.

Execution issued. 9^o Octob^r 1679. [589]

GIDLEY to WING

Mary Gidley Widdow Relict & Adm^x of the Estate left by Henry Gidley her Husband late of Chelmsford dece^d personally appeared before the Honor^{ble} Simon Bradstreet Esq^r Gov^r Edw^d Tyng Esq^r & Humphry Davie Esq^r Assist^s and confessed Iudgem^t against the s^d Estate in her hands as Adm^x afores^d unto Iohn Wing of Boston Attourney & Assigne of the severall persons and for the Severall Summes here under named to bee paid in currant pay. viz^t to Timothy Carter of Wooburn twenty Seven Shillings, Iohn Barret Sen^r of

Chelmsford, Six pound Eleven Shillings, Iohn Barret Iun^r six Shillings, Thomas Barret twelve Shillings Sam: Foster Fourteen Shillings and one penny, Sam^{ll} Fletcher Sen^r Six pounds, six Shillings, Iosias Richenson Seven pound and Iohn Moore of Boston thirty Shillings three pence in the whole twenty four pound six Shillings & four pence. This done. 17^o Iuly. 1679.

as Attests. Js^a Addington Cler.

Execution issued 18^o Iuly. 1679.

HABBERFEIL^d to WEARE

William Habberfeild late of Bristoll Searge maker personally appeared before the Hono^{ble} Simon Bradstreet Esq^r Gov^r Thomas Danforth Esq^r Deputy Gov^r and Edw^d Tyng Esq^r Assist. 15^o Octob^r 1679. and confessed judgem^t against his Estate and person for the Summe of twenty pounds twelve Shillings according to the tenor of a bond bearing date. 25^o 7^{br} 1671. Fifty one pounds ten Shillings according to the tenor of a bond bearing date. 11th August. 1676 Sixty three pounds Fifteen Shillings according to the tenor of a bond dated the. 20th march. 1675/6. and the Summe of Twenty pounds twelve Shillings according to the tenor of a bond bearing date the. 12th Novemb^r 1672. in the whole amounting to the Summe of One hundred Fifty Six pounds nine Shillings, justly due and Oweing unto Abraham Weare Merchant Taylor of Bristoll in good and lawfull money of England to bee paid unto him or Robert Jones his Lawfull Attourney as may appeare by the Coppies of the s^d bonds on file. This was thus done.

as attests Js^a Addington Cler.

Execution issued 16^o x^{br} 1679. [590]

At A County Court held at Boston 29^o Iuly Ann^o 1679. @

Present

S: BRADSTREET Esq^r Gov^r
EDW^d TYNG Esq^r Ass^t

J: DUDLEY Esq^r
HUMP^r DAVIE Esq^r } Ass^{ts}

Grandjury Sworn

m^r W^m Parke
Tho: Peck Sen^r
W^m Greenough
W^m Tay
Griffin Craft
Ric^d Baker

Ric^d Withrington
Ant^o Gulliver
Robert Twelves
Ionas Humphry
John Lazell
L^t Iohn Smith

Francis Hammont
Rich^d Ellice Sen^r
Henry Wight
Nath^l Bosworth

Jury of Tryals Sworn

m^r Christ^o Webb
Iohn Skeate
Iohn Dafforne
Obadiah Read

Hump^r Iohnson
Edw^d Wiet
Iames Bird
Iohn Richards

Iacob Beales
Ezra Morse
Rob^t Avery
In^o White

[HAYWOOD v. BROME]

Anthony Haywood plaint. cont^a Iohn Brome in an action of the case for not performing his bargain made about the. 4th Decemb^r ult^o of a parcel of Rhum cont^a about 246 gallons, w^{ch} s^d Haywood bought at. 21^d per gallon and s^d Brome was to deliver free of all charges as custom &c^a but did not, So that 240 gallons or thereabouts is Seized on by the Collector for Custom in behalfe of the Country whereby the plaint. is damnified about twenty two pounds money with other due damages &c^a. . . . The Iury . . . found for the plaint. twenty one pounds in money damage & costs of Court allow^d twenty Eight Shillings: This Action was tryed at the last County Court but Judgem^t not entred untill this Court according to Law the Defend^t being out of the Country.

[HOWARD v. CARWIN et al.]

Robert Howard Attourney unto Rich^d Baylie W^m Walker & Morgan Lewes Exec^{rs} to the last will and Testam^t of Robert Breviter Esq^r of the Island of Barbados plaint. cont^a Ionathan Carwin who married with Elizabeth Relict of Robert Gibbs dece^d & Adm^x to his Estate; and Cap^{tn} Elisha Hutchinson who married wth Elizabeth Relict of Iohn Freake dece^d Adm^x to his Estate or either of them as so re-

lated Defend^{ts} for not paying the Summe of two hundred and Fifty pounds Sterling due as the Forfiture of a bond under the hands and Seales of the s^d Gibbs & Freake wherein they are jointly and severally bound bearing date. 2^d Decemb^r 1672. with all due damages. . . . The Iury . . . found for the plaint. Forfiture of the bond, two hundred and Fifty pounds and costs of Court; Both partys appearing and moving for a Chancery The plaint. craved onely his principle debt and some small matter of damage The Court chancered this Forfiture to Sixty Seven pounds one Shilling six pence in money and Sixty Seven pounds in boards according to bond (having allow^d Five pounds in money for damage) and costs of Court granted thirty one Shillings six pence.

Execution issued. 4^o Aug^o 1679.

HOLOWELLS cont^a BUTLER

William Holowell jun^r Benjamin Holowell and Edward Ashley who married Mary Holowell or their Attourney pl^{ts} cont^a Stephen Butler pretended Executor of Mary Ward late of Boston dece^d Defend^t for that the s^d Stephen Butler doth under pretence of such Executorship and colour of Law, withhold for about eleven years last past, the moiety of the Estate of Benjamin Ward sometime Husband of the s^d Mary to the value of Four Hundred pounds or thereabouts as by Inventory thereof upon Record will more fully appear with the profits and improvements thereof from the s^d William Benjamin and Edward the right heires of the same, together with damages as shalbee made appeare. . . . The Jury . . . found for the plaint^e the Estate Sued for [591] According to Inventory and costs of Court: The Defend^t appealed from this Iudgem^t unto the next Court of Assistants & put in Security for prosecution thereof to Effect.

[Benjamin Ward, shipwright, died intestate in 1666, leaving a widow, her son by a former marriage, Stephen Butler, and a son-in-law, William Holowell (father of the plaintiff in this case), who had married Benjamin's own daughter Mary Ward. When the case was reviewed in 1680, several men, who as apprentices had lived in the Ward household, testified as to the relations between the members:

S. F. 1911.27

The Deposition of John Vyall Junio^r aged about .34. yeares testifieth
That I lived with W^m Holowell five yeares an Apprentice the most of which

time was before Benjamin Wards decease, Benjamin Ward & Stephen Butler and W^m Holowell caried on the trade of building Vessells & other Carpenters worke together in partnership Father Ward one halfe and Steven Butler & W^m Holowell each a Quarter for the most of the time of my Apprenticeship I kep't the Accounts and was present at the time of their Reckonings and to my certain knowledge Stephen Butler upon making up of Accounts most commonly fell in debt unto Benjamin Ward by reason of having taken up beforehand more then his part and alwaies observed that Stephen Butler was beholding to Benjamin Ward and no waies advantagious to him but the benefit & profit of all Butlers Labour accrewed to himselfe, I never heard said Ward say that hee intended to give Stephen Butler anything; but have often heard him Say Benjamin Holowell should bee his heire

Sworn in Court: 28^o July. 1680.

attests I: Addington Cler

S. F. 1911.29

Thomas More aged 42 years or therabouts Testifieth that in the month of February 1665. to the best of my remembrance being in discourse with the old Goodman Ward about a match between his son in law William Hollowell & the widow Ryder, who had some time before y^t liued in my house, he said that William Hollowells children should be no charge to him for said hee I haue none so near related as they are, & that he Intended to giue the greatest part of his Estate to them, & farther saith not.

Taken upon Oath 13.9.1667

Rich^d Bellingham Gov^r

S. F. 1911.25

The Deposition of Timothy Thornton aged about 30. yeares. Testifieth that whereas I lived with m^r Benjamin Ward Ship wright for the space of Four yeares or thereabout and Six months or thereabout with his widdow after my Masters decease, So that I do certainly know and do testify that my Master Ward & his two Sons to Say William Holowell & Stephen Butler were in partnership as followeth my Master Ward one halfe and his s^d two Sons each of them one quarter and was to bee carried by an equall proportion of profit or loss, but at the end of severall peices of worke & Accompts being made up I heard complaints of Stephen Butler his takeing of more then his proportion but that hee was any waies a help to my Masters Estate for the time I lived with my s^d Master I do certainly know the contrary, and further that hee was rather a hinderance to it, by reason of the great love of my Mistris Ward to her Son Stephen Butler and to his Children So that almost anything in the house was at the command of the s^d Butler and his family, and the s^d family of Stephen Butler to say his wife and Children made no small improvement of her love by comming from time to time for such things as they wanted either for back or belly, if the house would afford it they had it in such measure as might bee without too much observation of my s^d Master & further Saith not.

Tymothy Thornton

Sworn in Court. 28^o July. 1680.

There are other depositions favorable to Butler, including the deposition "in perpetuam rei memoriam" of Richard Gridley (S. F. 1911.3), made 15 August, 1667, soon after the widow Ward's death and before

Hollowell began suit. This deposition was recorded in the book of wills for Suffolk at the request of Butler.

S. F. 1911.22

An Inventory of the Estate of Benjamin Ward dece^d taken the 26. January.

1666. @	£. s. d.
His purse & wearing Clothes Bootes & hatts.	08:19:00
In the parlour .1. old table .2. old formes 2. old joint Stooles	00:13:00
2. old Leather chaires	00:09:00
1. Chest of drawers. 30 ^s 1 great Chest. 15 ^s	02:05:00
1. Feather bed. 1: Boulster. 2. pillows and a green Rugg	05:00:00
The Bedsteed w th Curtains vallents & curtain Rods	01:15:00
1 ^{li} thrid & a p ^r of woosted Stockins	00:08:00
4. pair of Sheets	03:01:00
2. Table cloths	01:02:00
4. pillowbeers. 8 ^s 5. Napkins. 5 ^s	00:13:00
A parcel of Flax w th a wheele	01:00:00
2. barrells of Sugars valued at	05:00:00
a hatt	00:04:00
In the Chamber over the Kitchin one Feather bed one boulster 3. pil-	
lows. 2: blankets 1. old curtain one old Rugg	06:00:00
pair of Sheets an old bedsteed & Bolster	00:19:00
9. y ^{ds} $\frac{1}{2}$. of damaged broadcloth	02:05:00
2. Chests w th an old chaire	01:01:00
an old warming pan w th a pair of tongs	00:04:00
an old Lampe with $\frac{1}{2}$ yarne	00:01:06
In the .2. Garretts .2. flockbeds & .4. bouldsters	01:15:00
Two old bedsteeds & a Settle	00:08:00
two hundred of Cotton wool as is judged at 5 ^d per ^{li}	04:11:08
a small parcel of Sheep's woole	00:04:06
2 muskets. 2. Rapiers & 2. p ^r of Bandileers	01:15:00
In the Kitchin a parcel of pewter	02:03:00
Earthen & tyn ware .2 ^s & a p ^r of Styliards	00:12:00
In plate .1: beer bowle .1: wine cup & 2. Spoones	02:00:00
In Bookes .11 ^s 2. brass kettles. 1 ^{li} 5 ^s 3 Iron pots & a frying pan 37.6 .	03:13:06
2. tramels .1. p ^r pot: hookes. 5 ^s 1: box Irons 5 ^s 3. old chaires .8. .	00:18:00
1. old cupboard w th an old table. 8 ^s a p ^r andirons 5 ^s a parcel of tooles.	
22 ^s	01:15:00
Severall parcels of old Iron	02:00:00
$\frac{1}{3}$ th part of the Katch Guift	50:00:00
$\frac{1}{4}$ part of the Katch Endeavour	60:00:00
$\frac{1}{3}$ part of a Lighter	12:00:00
a parcel of Oares	32:10:00
By .2. hundred of planke or thereabouts	01:00:00
By a parcel of old planke & a peece of old Rack	01:10:00
By a parcel of Masts & poles	04:00:00
By a parcel of Land before the house of his Son Holoway unto the Sea	
w th the Shed	40:00:00

	£. s. d.
3. dwelling houses w th the yard Roome belonging to each of them	450:00:00
The Orchard above the houses	35:00:00
A Smith's Shop & a Coopers Shop	20:00:00
12. Acres of Land at Muddy River	24:00:00
By part of a parcel of Land at Bilrica	04:00:00
By debts due to the Estate part of them accompted desperate	90:12:00
By old Lumber in the house & Cellar	01:11:00
By Wharves & Docks	40:00:00
	<hr/> 940:00:00

taken by us.

Peter Oliver
Henry Allin

By what Benjamin Ward was indebted to severall persons 82:15:07

At a County Court held at Boston. 15th February .1666

Mary Ward Relict of the late Benjamin Ward deposed that this paper contains a true Inventory of the Estate of her late husband Benjamin Ward to her best knowledge, that when Shee knows more Shee will discover it; The Court Order that the Estate remain wholly in the Widdows hands till the Court take further order — Edw. Rawson Record^r

Ward's widow died in July, 1667. Her will is as follows (S. F. 1911.21):

In the name & fear of God Amen. I Mary Ward the Relict of the late Benjamin Ward of Boston Shipwright being weak of body, but through the Mercy of God in perfect understanding knowing that its apointed for all men to die, though the time be uncertain, Considering y^e trouble I haue met with & being put unto by reason Sickness came so on, & death so suddainly Issueing, taking my husband out of this World before he setled his Estate and knowing that he often declared to me, y^t haueing from a Child brought up my Son Stephen Butler, y^t I had by a former husband, whom he found So dutyfull, helpfull & servisable to him as if he had been his own, hee alwaies telling mee he minded to giue him a Considerable part of his sd Estate, y^t had so great a hand in helping to get it, least after my decease both my dear husbands mind & will Should not be understood I haueing allwaies a hand in geting of the Estate, Judg it for peace sake, y^t my Son, & Son in law & Grand Children may liue in loue and peace, thought necessary to make this my last will & testament being Sole Administratrix to my sd husbands Estate, hereby annulling any late or former Will of mine resigning up my Soul into the hands of the Lord y^t gaue it, & my body to the Earth, to be Interr'd by my Execut^r hereafter named, looking for a Glorious Resurection through the merits of Christ Jesus my blessed Sauour.

Imprimis I giue to my Reuerend Pastour m^r Jn^o Wilson forty Shillings. To m^r Thatcher & m^r Allen forty Shillings apeece, & to the poor of the Church of Boston foure pounds.

Item I giue & bequeath to my Son in law William Holloway Ten pounds.

Item I giue to my much honrd Friends Major Generall John Leueret & m^r Peter Olivar my antient & neer neighbours alwaies helpfull to mee. Three pounds apeece to buy them a Ring.

Item I giue and bequeath all the rest of my Estate both reall & personall, in houses lands, wharfs goods & housholdstuff & whatsoeu^r my husband left & I now possess & Enjoy, the one half therof that is of all y^e houses and & lands & goods to my thre Grandchildren, mary Holloway whom my husband & I brought up. William Holloway & Benj^a Holloway to be divided Equally between them when they come to bee of age & that they be heysr Each to other, & in case of their decease the One half to their Father W^m Holloway & y^e other half ther of to Stephen Butler my Son & his heyres.

Item I giue & bequeath the other half of the houses lands & goods to my beloued Son Stephen Butler and his children, he haueing so Industiously laboured with & for my husband, & in case of his & al his Childrens decease before my Grand Children being of age, in Such case what I giue to them my minde & will is should goe to my Grandchildren or the longest liuer of them.

Item. My mind & will is that my Son in law W^m Holloway shall (giueing Security to my Execut^r to render it up w^t I haue giuen to my Grand children, that dureing their Nonage) he shal haue y^e benefit & Improuem^t therof.

Lastly I doe hereby nominate & appoint my Son Stephen Butler to be Sole Execut^r of this my last will & testament & Earnestly desire my Honrd Friends major Generall John Leueret & m^r Peter Oliuar to be Querseers of the same & y^t they would Assist my Execut^r wth their best Councel & advise & see that this will be performed. In witness I haue here unto set my hand & Seal this 4th day of July 1667.

mary M Ward
her mark & a seale

Signed. Sealed. Deliurd & published by y^e sd mary Ward to be her last will & Testam^t this 4th day of July in the pu^sence of us.

W^m Salter, Jn^o Prince
Henry Allen, Jn^o Saunders

In May, 1667, the widow Ward had filed a petition for division of her husband's property. Action was taken on this after her death.

S. F. 1911.13

To the Honourable the General Court now assembled
The humble petition of Mary Ward Widdow
Humbly Sheweth

That it hath pleased God lately to take to himself the late Benj^a Ward, yo^r petition^s dear husband before he did or could settle that Estate which God had bestowed on him by his and yo^r Petition^s labour and care for about forty & fve years wherin they liued together with the constant & faithfull seruice of Stephen Butler Son to the pet^r by a former husband who was very dear to your pet^s late husband Ward, who alwaies told yo^r pet^r that he resolved to manifest his loue & affection to her said Son Butler as to his owne, that God had giuen unto them selues as a reward of all his faithfull & dilligent seruice both before & after he was for himself; but he dyeing Jntestate, & yo^r petition^r very aged & weak, & unfit to manage what is left, & being desireous that y^e Estate of her late husband may bee divided & settled on herself & her thre Grandchildren w^{ch} is all the Jssue

that God is pleased to Spare the petition^r & her late husband, the one half ther of to yo^r petition^r & her dispose wherby she may be enabled to liue in some measure, Comfortably the remainder of her time, but also leaue behind her some testimony of her loue to her Son Butler, and his Children to whom her husband Intended soe well, & the other half of the whole to hir sd Grandchildren to bee giuen to them at the day of maryage. & yo^r petition^r as in duty she is bound, Shall pray.

That this is a true Copy Compared wth y^e Originall Exhibited to the Gen^l Court may. 1667

Attests Edw Rawson Secretary

Vera Copia attests Is^a Addington Cler

At a Generall Court held at Boston the 15 May. 1667

In Answer to the petition of Mary Ward widdow, the Court on perusall of the petition declares y^t y^e Cognisance therof belongs to the County Court of Suffolk to whom it is referred.

S. F. 1911.21

At a County Court held at Boston 31. July. 1667

The Court on due perusall of the late Mary Wards petition to the Gen^l Court in May last, & y^e Courts Answer therunto with the Evidences of Richard Gridly & Henry Allen to gather wth the last will & testament of y^e sd Mary Ward now also proued in this Court by Suffitient Evidences to be her last will & Testament, & Considering her equall minde & due care to her Children both by first & Second husband, doe allow & Confirme the said Will to be a finall Issue for settling of that Estate between the Children. Ordering that her petition & Evidences here with be recorded with that her will. Edw^d Rawson Record^r

. . . true Copie . . . Edw. Rawson Record^r

At this point William Hollowell began proceedings to get the property away from Butler, his wife's half-brother, alleging in a petition to the General Court in April, 1668 (S. F. 1911.14), that "according to the law of God" (Numbers xxvii: 7-11) and "the law of our Nation" he and his should inherit the Ward estate; that Mrs. Ward had no power to dispose of her husband's estate out of his line. The General Court at that time (1668) refused him redress; then years later this suit was started.

S. F. 1911.11

Stephen Butlers Reasons of Appeale from the verdict of the Jury and Judgem^t of the County Court held at Boston. 29th July ann^o Domⁱ 1679 @

Humbly tendred to this Hono^{ble} Court of Assistants sitting in Boston the 2^d September 1679 in that Action, wherein W^m Holowell junior Benj^o Holowell and Edward Ashley were plaint^s and Stephen Butler Defend^t

That whereas the Appellant was Sued for withholding an Estate from the Defend^t under pretence of Executo^rship to his mother the late Mary Ward will and to give an Acco^t into the Court according to the Inventory given in by the Appellants mother in the year. 1666.

1st Because the Appellant posseseth no Estate but as a Legatee as appeareth by will.

2^{ly}. Whereas hee is Sued for an acco^{tt} of his Father in law Wards Estate given in by Inventory by his late mother and committed wholly to her dispose by the then Honord County Court that had the legall power so to dispose thereof, which act no way concerns him and therefore not liable to give an Acco^t of that Inventory which came to nine hundred and Forty pounds and there was due out of that Estate Eighty two pounds Fifteen Shillings and Seven pence as appeares by that Inventory whereas the Estate of Mary Ward the Relict widdow of of the s^d Benj^o Ward after her decease was given into the Court; it came to but Seven hundred Seventy & two pounds Seven Shillings & eight pence for there was losses in parts of severall vessells before her decease and there was due from the Estate upon her Inventory given in Forty Six pounds and ten Shillings besides the Appealant had disburs^t for physick for his Mother and debts due from his Father in law's Estate and Legacies given by his Mother and funerall charges. and other necessary disburs^{ts} Forty five pounds five Shillings and Six pence, all which hath been given in an acco^t though nothing as yet paid by the now Defend^{ts}.

3^{ly}. The Mother of the Appellant and wife of the said Ward brought a considerable Estate to him w^{ch} was the appell^{ts} own Father Butlers Estate of which hee had no part (though hee ought to have had) and the Appell^{ts} mother by her care & Industry was helpfull in getting part of the s^d Estate and yo^r Appellant lived with and wrought for his Father in law with diligence from his youth untill hee was married as hath been owned by his Father in law Ward and known to many in this Towne without any Satisfaction

4^{ly}. Because the Appel^t posseth what hee now enjoies legally it being granted by the County Court to him who by law onely had the power to take probates &c^a and was confirmed by the Gen^{ll} Court and divided by a Committee chosen by the County Court; and that confirmed also by the Gen^{ll} Court and the Appel^t rec^d his part and his Brother Holowell rec^d the other parts for his Children (hee being then appointed Guardian to his daughter &c^a)

5^{ly}. The Appel^t hath enjoyed that part of the Estate laid out to him by the s^d Committee peaceably above eleven years and hath disposed of some part of it since it was in his possession and hath laid out above two hundred pounds in building repairing & wharfeing upon the s^d Lands to the great advancement of the s^d Estate alwayes accounting it his own inheritance as by law it is if our laws bee laws.

6^{ly}. It was the Appel^{ts} Father in laws minde that the Appel^t should have an equall Interest in his Estate with his Brother Holowells Children as appeares by the testimony of Mary Busbey Henry Allin and Richard Gridley & gave his Reasons for it.

7^{ly}. Because the Appel^t understands not how a Jury can overturn an act of a County Court the same act being confirmed by the Gen^{ll} Court without some strong and new Evidences appearing in like manner to both Courts, but the now Defend^{ts} have produced none but what was then produced both before the County Court & Gen^{ll} Court.

8^{ly}. The Appel^t conceives that the testimony of William Greenough mentions onely some transient expressions of his Father in law, and some words that past from him and not any legall dispose of his Estate And as for the testimony of Thomas Moore given into y^e last County Court; It is contrary or far besides his former Oath. in his last testimony hee swears that Goodman Ward said that

hee intended to leaue his whole Estate to his Son Holowells Children which is but a single witness, and that to an hearesay, and this was his s^d intention (but not a legall disposing of his Estate, and in Thomas Moore testimony taken about ten yeares since hee there saith that Goodman Ward said that hee did intend to give the greatest part of his Estate to his Son Holowells Children & so his testimonys are contrary the one to the other or at least so far different one from the other [*torn*] renders them no evidence in law, And so the Appell^t doth commit & commend his case to the Judgem^t and determination of this Hono^{ble} Court & Gent^a of the Jury, hoping they will see just cause & good reason to reverse the Judgement of the former Court and am

Yo^r Hono^{rs} most humble Servant

Steven Butler

These Reasons were received
28^o aug^o 1679 per I: Addington C

The Court of Assistants (Records, i. 140), confirmed the former judgment "in part, that is to say the moyety" of the estate, or 400*l* in money, and 56*s* 10*d* costs. From this decision, Butler appealed to the General Court (S. F. 1911.15):

To the Honord Governo^r & Deputy Governo^r with the Hono^{rble} Assistants & Worthy Deputys, members of the Generall Court now Assembled in Boston .15. (8). 79.

The humble petition of Stephen Butler most humbly Sheweth that whereas yo^r poor petitioner was cast in a case at the last Court of Assistants upon an Appeal from the Judgement of the last County Court holden in Boston upon the .29th July .1679. whereby yo^r petition^r doth apprehend himselfe much wronged, for by that Judgement your petitioner hath lost most part of his Estate being to the value of Six or Seven hundred pounds besides the great charge I have been at in buildings and wharfeing and paying of Legacies out of the s^d Estate that I have been possessed of above these eleven yeares, which Estate was given me by my Fathers and also of my Mothers will & confirmed unto me by acts of the County Court & Generall Court and now disposessed of my Estate by the acts of the two last Courts to my utter undoing unless I finde releife from yo^r Hono^{rs} — The humble Request of your poore petition^r therefore is that my case may have a full hearing in this Generall Court, that the oppressed may be eased, and to obtain his just Rights, and yo^r Favour & clemency to yo^r poor petition^r in granting his Request shall ever oblige him to pray for yo^r poor petitioner in granting his Request shall ever oblige him to pray for yo^r Hono^{rs} prosperity. & Remain

yo^r Hono^{rs} Servant

Stephen Butler

The General Court (Records of Massachusetts Bay Colony, v. 251) on 15 October, 1679, granted a hearing of the case, after which it took the following action:

On a full hearing of the case brought by petition from Steven Butler, plaintiffe, against Willjam Hollowell, Benjamin Hollowel, and Edward Ashley, deffendts, this Court judgeth it meete to reuerse the judgment of the last Court of Assistants,

and doe confirme the settlement of the County Court in Boston enstating the cleare halfe of the estate of the late Benjamin & Mary Ward, as therein is exprest, to be deliuered vnto the sajd Butler, and be to him & his heires foreuer, granting the sajd Butler his costs, & of the Court of Assistants, ten pounds.

Even after this, Butler was not left in peace. On 27 July, 1680, the jury of the County Court gave a verdict against him on the old claim of the Holowells that he had withheld the Ward estate from them (Records of the Court of Assistants, i. 380). Butler then appealed to the Court of Assistants, sitting in September, 1680. In his Reasons of Appeal (S. F. 1911.10), besides asserting that the case was finally decided by the prior proceedings in the General Court, Butler points out the dangers lurking in the Holowell contention that Massachusetts inheritance law should be determined by the Book of Numbers:

For if that Law should take place for our Wrights heare in New England then in y^e 50: yeare w^{ch} is y^e Jubell: that all Lands Disposed of by their prediccors must then certainly Returne to their Heires: so y^t not only Diuers Purchisers will Lowse their Just Intrusts: but allso great peart[e] of many plantashons must Doutless fall backe Againe to their heires whose Fathers sould their Rights & titells.

The Court of Assistants, however, confirmed the judgment of the lower court, and imposed 6*l* 6*s* costs on Butler. The record of the appeal is to be found in the Records of the Court of Assistants, i. 380, followed by the subsequent executions and returns.]

ASHLEY cont^a THOMAS

Edward Ashley plaint. cont^a Rice Thomas Defend^t in an action of debt of ten pounds in money due by booke with damages &c. . . . The Iury . . . found for the Defend^t costs of Court.

LYNDE cont^a PHIPPENY

Simon Lynde of Boston Merch^t plaint. cont^a Robert Haughton and Sarah Phippeny Widdow or either of them Defend^{ts} in an action of the case for not paying unto the plaint. the Summe of Forty nine pounds eight Shillings in money due unto him the. 4th day of April. 1678. according to a writing or ingagem^t under their hands and Seales dated. 3^d April. 1676. whereby they are jointly & severally bound for the payment of the aboves^d Summe with damages &c^a. . . . The Iury . . . found for the plaint. Forty nine pound eight Shillings

money according to engagem^t & costs of Court: The Defend^t Phippeny appealed from this Iudgement unto the next Court of Assistants and put in Security for prosecution thereof to effect: Afterwards both partys appeared in Court and declared they had agreed, Requesting the Appeale might bee withdrawn, which was accordingly granted.

CROWNE cont^a PAINE

Colonel W^m Crowne plaint. cont^a the goods Estate late belonging unto m^r Iohn Paine dece^d as Assets in the hands of Richard Knight Adm^r or wheresoever else they may bee found Defend^t This Action was dismis^t, There being a Committee appoint^d by the Court to take in the claims of the Credito^{rs} as an insolvant Estate, and no sute Admitt^d likewise the plaint. asserting that no person obstructed his taking possession of the Estate hee Sueth for.

LONG cont^a LEICHFEILD

Thomas Long of Hartford plaint. cont^a Thomas Leichfeild and Mary his wife (late Mary Long) Adm^{rs} of the Estate left by Ioseph Long sometime of Dorchester dece^d Defend^t in an action of Reveiw of a case tryed at a County Court held at Boston. 29^o Iuly. 1673. between the s^d Thomas Long by his Attournys plaint. and Ioseph Long Defend^t for withholding and improving a parcel of Land containing ten or twelve Acres lying in the great Lotts in Dorchester within pale &c^a according to Attachm^t. . . . The Iury . . . found for the Defend^t costs of Court.

WALDRON cont^a HENDERSON

Isaac Waldron plaint. cont^a W^m Henderson Defend^t in an action of reveiw of a case tryed at a County Court held in Boston. 30th April. 1678. and from thence carried by Appeale unto the Court of Assistants in September following for non payment of one hundred and Fifty pounds in money or what shall appeare due by promiss and engagement under the s^d Hendersons hand and Seale &c^a according to attachm^t. . . . [592] The Iury . . . found for the Defend^t costs of Court.

[See cases of the same name, above, pp. 903, 924.]

MAN cont^a WING

Iohn Man plaint. cont^a Iohn Wing Defend^t in an action of debt of nine pounds one Shilling and six pence in money Remaining due upon the ballance of Accompt as shalbee made appear with other due damages &c. . . . The Jury brought in a Special Verdict. Viz^t if the testimony of one man to an Acco^t which hee hath received from another under his hand, the Defend^t not denying it bee a sufficient testimony to the proving of a debt then wee finde for the plaint. Eight pounds in money and costs of Court, if not wee finde for the Defend^t costs of Court. The Magistrates Iudge for the plaint. Eight pounds in money and costs of Court granted twenty one Shillings.

Execution issued 13. Aug^o 1679.

KEEN cont^a WISWALL

Iohn Keen plaint. cont^a Iohn Wiswall Iunio^r Defend^t in an action of the case for defameing and Slaundering the wife of the s^d Keen by Saying that the small pox was rife in Boston and that it was said Shee had got the great ones which words hee hath spoken to severall persons and thereby greatly damnified the plaint. in his name credit & Employ this with all other due damages: . . . The Iury . . . found for the plaint. that the s^d Iohn Wiswall pay unto the plaint. Fifty pounds in money, or make an acknowledgem^t to the Satisfaction of the Hono^r^d Court and pay costs of Court: The Defend^t appealed from this Iudgem^t unto the next Court of Assistants & put in Security for prosecution thereof to effect.

SAVAGE cont^a HUTCHINSON

Ephraim Savage who married with Sarah the Relict of and Adm^x of the Estate of Obadiah Walker dece^d plaint. cont^a Cap^{tn} Elisha Hutchinson who married with Elizabeth Relict & Adm^x of the Estate of m^r John Freake dece^d Defend^t

The partys mutually agreed in Court to Submit this Action and all other differences between them upon Acc^o as they stand in the capacitys above mentioned to the determination of the Bench which they accepted of.

LEECH cont^a PAINE et^a

John Leech plaint. cont^a Moses Paine Senior Daniel Turell Senior and Jonathan Bridgham Administrato^{rs} to the Estate of Iohn Cleare Iunior of Boston dece^d Def^{ts} in an action of debt of twelve pounds nineteen Shillings in money due to the plaint. for worke done for him by s^d Cleare in finishing his house &c^a. . . . The Iury . . . found for the plaint. five pound Fifteen Shillings nine pence money and costs of Court allow^d twenty Shillings two pence.

SIMPSON cont^a SALTER &c^a

Lo-Ammi Simpson or his lawful Attourney plaint. cont^a Iabez Salter and Nathanael Addams jun^r Defend^{ts} in an action of the case for not paying unto Elizabeth wife of [593] s^d Simpson late Relict of Richard Critchley dece^d the Summe of ten pounds in money due unto her to the third of november last (according to the order of a County Court held at Boston by adjournm^t of the Generall Court: Novemb^r 23. 1675) being for one year &c^a wth damages: . . . The Iury . . . found for the plaint. ten pounds in money and costs of Court allowed Eighteen Shillings and ten pence.

Execution issued. 6^o Aug^o 1679.

[Enforcement appears to have been the difficulty in this case, as Salter and Adams had already been adjudged to pay 10^l yearly to Elizabeth Simpson (above, p. 641), and Loammi Simpson had gone to law about it in 1677 (p. 791). Salter and Adams had already petitioned the General Court on the subject, but as the following document (S. F. 1774) shows, the two houses could not agree about the case.

To the honored Governour Deputy Governour Assistants & Deputies now sitting in the Generall Court in Boston begun on the 28th day of May 1679

The humble petition of Jabez Salter and Nathanael Adams

Humbly sheweth. That wheras your petitioners married the two daughters of Richard Chrichley late of Boston deceased this life in the yeare 1675. intestate. The honored County Court settling his Estate which by Jnventory amounted to three hundred & odde pounds of which the County Court was pleased to give our mother in Law relict of our sd father all the moveable estate & debts to the value of fivety odde pounds to her & her heires for ever & disposed the remainder of the estate to our wives who were all the children then liveing of our sd father. And this remaining Estate lay in old howseing very much out of repaire with a little Land that turneth to very little Acc^t yet the honored County Court was pleased to order that your petition^{rs} should pay out of this inconsiderable Estate besides the moveable estate abouementioned, Ten pounds per Annum in money

to our sd mother in Law dureing her naturall life which is as much as the estate is worth by the yeare keeping it self in good repaire as by the copy of the sd Courts order will appeare by which order your poor petition^{rs} doe looke at themselves to be much greived especially considering that if these bad howseing should come to ruine (which vndoubtedly they will doe) if not mainetained by considerable expence then your petition^{rs} will be as far from reaping benefit from our fathers estate that we must worke to pay this ten pounds per yeare to our mother in Law (which they judge in humility) very hard especially considering that she was & is a woman able to get her owne liveing, & brought noe estate with her to our sd father & is also marryed to a lusty man by Trade A shoemaker now resideing at Marblehead. And for your petit^{rs} to maintaine an other mans wife they judge it very hard.

Therefore your petit^{rs} doe humbly commend this their case to to this honored Court humbly craveing a hearing of their cause & to be releived as far as may stand with equity & justice. And in soe doing your hon^{rs} will much oblige your petit^{rs} to pray that God will guide & protect you in all your just proceeding &c. & subscribe themselves [Yo^r hono^{rs}] humble servants

Jabez Salter

Nathanall Adams

[Endorsed:]

Jabez Salter & Nath: Adams petition

Entred & 10^s paid May 1679

Read by the Deputs nothing Donn

The Magistrates refer the Consideration of this petition to y^e County Court for Suffolk to revise their Judgm^t & Do therein as the law Directs. our brethren the Deputyes hereto Consenting

Edw^d Rawson Secret

4 June 1679

The Deputyes doe not Consent hereto but Judge meete that Jt be heard the next 3^d day at 9 of the Clocke & that the Secretary giue Warrents to all persons Concerned to attend at that time the Determination of the Court in y^s Case o^r Honord magis^{ts} Consenting hereto

William Torrey Cleric.

The magists Consent not heereto

Edw^d Rawson Secret

See Simpson v. Salter, below, p. 1139.]

GROSVENN^r cont^a HALL

Iohn Grosvenner plaint. cont^a Richard Hall & Elizabeth Hall his wife late Widdow Relict & sole Executrix of In^o Holbrooke dece^d Defend^t in an action of reveiw of a case formerly tryed at a County Court held at Boston the. 29th of April last, where the s^d Elizabeth obtained judgement against the s^d Grosvenner for cost of Court which is to his damage with all other due damages: . . . The Iury . . . found for the plaint. the ten hides in controversy or five pounds and costs of Court granted Forty Eight Shillings.

GROSVEN^r contra HALL

Iohn Grosvenner plaint. cont^a Richard Hall & Elizabeth Hall his wife the Relict & sole Executrix of Iohn Holbrooke dec^d Def^t for withholding a parcel of Leather amounting to the value of one hundred pounds or thereabouts, which Leather was committed to Iohn Holbrooke dece^d by the plaint. sometime in the year. 1676. to dry and dispose of according to s^d Grosvenn^{rs} order w^{ch} is not done, to his great damage. . . . The Iury . . . found for the plaint. Fifteen pounds twelve Shillings and costs of Court allow^d thirty three Shillings and two pence.

GRIGGS cont^a CHOCK

William Griggs plaint. cont^a Peter Chock Defend^t in an action of the case for defamation for that the s^d Chock hath reported before severall persons that the s^d Griggs was drunke and that hee the s^d Chock would prove it, which is very much to the plaint^s damage with other due damages &c^a. . . . The Iury . . . found for the plaint. that the s^d Chock pay Sixty pounds money to the plaint. or make an acknowledgem^t to the Courts Satisfaction and pay costs of Court allowed Forty three Shillings.

Execucion issued. for costs. 22^o aug^o 1679.

an acknowledgem^t given in to Satisfactⁿ

[This probably grew out of the following case.]

GRIGGS cont^a CHOCK

William Griggs plaint. cont^a Peter Chock Defend^t in an action of the case for that the s^d Peter Chock hath forfeit^d his bond for the Summe of one hundred pounds in money, w^{ch} said bond was made by the Exchange of money whereby hee the s^d Chock was bound to stand to agree with and fulfill an award given under the hands and Seales of Iabez Salter Edward Lilley and Nathanael Barnes upon [594] The 16th of April last past and w^{ch} s^d Award the s^d Chock hath not fulfilled as shalbee made appear which hath been much to the plaint^s damage with other due damages &c^a. . . . The Iury . . . found for the Defend^t costs of Court: The plaint. appealed from this Iudgem^t unto the next Court of Assistants and put in security for prosecution thereof to effect.

[The award in question appears to have been the following (S. F. 1800.4):

Whereas Peter Chock and William Griggs have drawn up Articles of Agreement bearing date the .8th of Ian^r last past as by them the s^d Articles may appear, and whereas differences have arisen by and between them the s^d Chock and Griggs in and about the fulfilling of the s^d Articles, and whereas this .16th of April. 1679. the s^d Chock and Griggs have by the Exchange of a Shilling interchangeably each with other bound themselves under the penalty of One hundred pounds in money each to other to stand to the Award and Arbitration of Jabez Salter Edward Lilley & Nathaniel Barnes and to agree with and fulfill the said Award being given under their hands and Seales:

Wee therefore the Arbitrato^{rs} and Umpire do award & Arbitrate as followeth. That W^m Griggs shall forthwith go with Marshall Webb, and shall exonerate & discharge all goods person mony debts or Estate whatsoever which the s^d Griggs hath already Seized or Attached as Peter Chocks goods person mony debts or Estate And that the s^d Peter Chock shall do the same in the behalfe of the goods Estate or person of W^m Griggs, and that Peter Chock shall assigne make over and confirme unto W^m Griggs all and every part of that debt or debts whatsoever w^{ch} m^r Humphry Davie doth owe or is indebted unto the s^d Peter Chock and shall fully exonerate and acquit the s^d m^r Davie of the same And that W^m Griggs shall deliver forthwith unto Peter Chock the one halfe and no more of all Empty Caske which have been emptied upon Racking cureing or fining of wines whatsoever and also one halfe of all Lees & wines thereon w^tsoeu^r w^{ch} have been left of all wines racked cured or fined between them both. And also that Peter Chock shall pay in money unto W^m Griggs Five and Fifty Shillings in money assoon as the former part of this Award is fulfilled and also that W^m Griggs shall pay two thirds of the charge of the house and Peter Chock one third thereof And that Peter Chock and W^m Griggs shall fully and absolutly exonerate acquit and discharge each other their heires Exec^{rs} Adm^{rs} & Assignes of and from all Actions and causes of Action debt debts Summe and Summes of money Accompts Articles of Agreem^t whatsoever especially those Articles bearing date the .8th of Ian^r last past w^t soeu^r from the beginning of the world to this day and shall Seale and deliver the same each to other. And that this Award and every part thereof bee fully compleate and finished on or before the four and twentieth day of this month. Witness our hands and Seales this. 16th April. 1679.

Jabez Salter a Seale
Edward Lillie a Seale
Nat: Barnes a Seale

Owne^d in Court by Edw^d Lillie and Nath: Barnes. 30th July. 1679. to bee their Award, and Chock acknowledged themselves so bound as above is expres^t

Vera Copia . . . Js^a Addington Cler.

J: Addington Cler.

There are a number of depositions on file, all to the same tenor as the following (S. F. 1800.15):

The Deposition of Nathaniel Peirse aged .28. yeares or thereabout testifieth. that I this deponent sometime in the latter part of April last being at the house of Nathaniel Barnes there being present William Griggs and Peter Chock and

there s^d William Griggs did desire me to take notice that hee did tender and would deliver unto Chock his part of Lees and empty Caske which was I understood for the fulfilling of an Award of Arbitration between them, but Chock refused Saying there was not his whole part; but William Griggs told him s^d Chock that his part was set aside for him and that none of it was diminished, and that hee could if need take his Oath to it whereat Peter Chock seemed to bee pritty well Satisfied and further Saith not. Sworn in Court .30. July. 1679.

Vera Copia Attest^r Js^a Addington Cler

Griggs issued a Reasons of Appeal (S. F. 1800.5) and Chock an Answer (S. F. 1800.6), of which the following paragraph is the only one that is comprehensible to the editor:

And J humbly Conceue as y^r honor^s will finde y^t Jt had been more Just for me y^e defend^t to haue prosecuted griggs: for detaining from & nott deleue[rin]g to me my Empty Cask & Leas of wine or wine tharon y^t is fuley Expressed Jn ye Award he shuld dwo & speeds Testemoney cleare y^t J demanded butt when J came J culd have none wethout J vld take about 10 gall for about a pipe full y^t was betwext vs being y^e produce of about 40 pipes wine orderd & racked for m^r daue besides y^e quantey of royall y^t J had of malego wine & Leas of m^r peter Sargent y^t griges still keepeth from me & has sence sould part of, y^t has bin much to y^r Defend^s wrong & damedg Jn detayning y^t from him y^t Jn his way he mite haue Advanced upon, which to Avoide Contenshon yo^{ur} defend^t did for bare suing for And yett am willing to sett all things torites betwene o^rselfes he paying for ye vnnesesary Cost trubell & Charge he has put me two J desire y^e honoer^d Excuse for Jnlarging apou this point. . . .

The Court of Assistants (Records, i. 140) confirmed the former judgment and assessed 20s 6d costs on Griggs.]

KINSLEY cont^a HAYDEN

John Kinsley late Constable of Milton in part of the year 1675. and part of the year. 1676. plaint. cont^a Ebenezar Hayden Defend^t for withholding the Summe of two pounds eleven Shillings and five pence being so much hee was Assessed by the Selectmen of Milton to pay to severall rates to the Country in the time of the s^d Kinsleys being Constable for which hee had warrant to collect and Levy of the s^d Hayden, which Summe was distreined by the s^d Constable in Corn but replevied by the s^d Hayden upon which Replevyn hee was cast but hath not returned the Corn nor value thereof whereof the plaint. is damnified the value aboves^d. . . . The Jury . . . found for the plaint. two pounds eleven Shillings five pence and costs of Court allow^d thirty five Shillings eight pence.

DEANE cont^a WOODBRIDGE &c^a

Peter Sergeant and Paul Dudley Attournies of Thomas Deane Merch^t plaint^s cont^a Thomas Woodbridge of Newberry and Nicholas Paige of Boston them or either of them Defend^{ts} in an action of debt of One thousand pounds currant money of New-England due upon the Forfeiture of an Obligation under their hands and Seales bearing date. 2^d Iune. 1677. wherein they stand jointly and severally bound for payment of the Summe afores^d with damages: . . . The Jury . . . found for the plaint. Forfeiture of the bond One thousand pounds money and costs of Court At Request of the Defend^{ts} and having heard both partys The Court chancered this Forfeiture to Five hundred twenty Six pounds thirteen shillings and four pence in money (being the principall debt and damage) and costs of Court

m^r Peter Sergeant and m^r Paul Dudley Attournys of m^r Tho: Deane personally appearing in y^e office. 6^o may. 1681. acknowledged they had rec^d Security for Satisfaction of this Judgem^t from m^r Nich^o Paige by a mortgage of houseing and Lands in Boston

Js^a Addington Clrc

DEANE cont^a HILMAN

Peter Sergant and Paul Dudley Attournies of Thomas Deane merch^t plaint^s cont^a Iosia Hilman Defend^t The plaint^s withdrew their Action.

MATSON cont^a BEALE

Thomas Matson and Ioshua Matson Surviving Executo^{rs} of the last will of Tho: Matson dece^d plaint^s cont^a William Beale who married with Elizabeth Jackson Relict & Executrix of Edmund Jackson Defend^t in an action of the case to the value of ten pounds in money or thereabout with damages: . . . The Jury . . . found for the plaint^s ten pounds in money & costs of Court allow^d Forty three Shillings and four pence.

Execucion issued 5^o aug^o 79. [595]

LOVERIN &c^a cont^a MOORE

William Loverin and Thomas Gent plaint^s cont^a Iohn Moore Defend^t in an action of the case for withholding the Summe of Five

pounds ten Shillings in money due from the s^d Moore for two thirds of the Freight of Ninety four tons of Salt brought from onboard the Ship Indeavour Samuel Smith Command^r and for the two thirds of the Freight of one Boate load of Ballast carried onboard s^d Ship which the s^d Moore promised payment of with damages. . . . The Iury . . . found for the plaint^s three pounds two Shillings six pence in money and costs of Court allow^d thirty five Shillings two pence.

BARNES cont^a CHOCK

Nathanael Barnes plaint. cont^a Peter Chock Defend^t for withholding the Summe of twenty and four pounds twelve Shillings six pence due to the s^d Barnes as shalbee made appear with damages: . . . The Jury . . . found for the plaint. thirteen pounds ten Shillings six pence in money and costs of Court allow^d Forty two Shillings five pence.

Execution issued pr^o Aug^o 1679.

FRANKES cont^a ROCK &c^a

Sarah Frankes Widdow or her lawfull Attourney plaint. cont^a Ioseph Elyot Joseph Rock and Timothy Yeales them or either of them Defend^{ts} in an action of debt of one hundred & twenty pounds lawfull money of New-England due upon the Forfiture of a bond or Obligation under their hands and Seales bearing date 7th of May. 1678. wherein they stand jointly and severally bound for the payment of s^d Summe this with all due damages: . . . The Iury . . . found for the plaint. Forfiture of the bond one hundred & twenty pounds money and costs of Court. Upon Request of the Defend^t and hearing of both partys The Court chancered this Forfiture to thirty Seven pounds money and costs of Court m^r Rock makeing good his promiss about the Brewing Vessells and m^{rs} Frankes produceing a receipt from the Collector for the Forty Shillings said to bee paid for excise: The Defend^t Rock appealed from this judgem^t unto the next Court of Assistants and gave Security for prosecutⁿ thereof to effect.

[The first document in this case is the agreement of the defendants about taking over the widow Frankes' brewing industry (S. F. 1965.8). The inventory of the plant follows.

~~Know~~ all men by these pu^rsents that wee Ioseph Eliott Ioseph Rock and Timothy Yeales all of Boston in New-England are firmly bound and obliged unto Sarah Frankes of s^d Boston Widdow in the full Summe of one hundred & twenty pounds To bee paid unto the s^d Sarah Frankes her heires Exec^{rs} Adm^{rs} or Assignes in lawfull money of New-England To the which payment well and truly to bee made we do binde our selves our heires exec^{ts} adm^{rs} and every of them jointly and severally for the whole and in the whole firmly by these pu^rsents. Sealed with our Seales. Dated in Boston the Seventh day of May Ann^o Domⁱ 1678. And in the .30th year of his Maj^{ties} Reign.

The Condicion of this Obligacion is such that whereas the abovenamed Sarah Frankes hath rented and Farmed out unto the abovebound Ioseph Elliot for the term of one year next following the 30th day of April last past all her brewing Vessells and the benefit of her licence granted by the County Court of Suffolke for keeping a house of publike entertainm^t and retailing of beer & Cider for this pu^rsent year. ~~Now~~ in case the abovebound Ioseph Elliot shall well and truly pay or cause to bee paid unto the abovenamed Sarah Frankes her heires Exec^{rs} Adm^{rs} or Assignes at her dwelling house in Boston aboves^d the full Summe of Forty pounds in lawfull money of New-England within the space of one year next insuing the date hereof (that is to Say) Ten pounds of s^d Summe at the end of each quarter of the year, and shall also well and truly pay the Rates and Imposts that shall grow due unto the Country according to Law for his draught of beer Cider or Ale by virtue of s^d Licence, and all fines penalties or forfeitures that may bee inflicted or imposed by Authority for any transgression of s^d Licence or non observance of the Laws, and all other dues and charges whatsoever arising and growing due for or by reason of the keeping of s^d publike house, then this Obligation to bee void otherwise to abide and remaine in full force.

Signum

Joseph Eliott. a Seale

Joseph Rock. a Seale

Timothy Yeales. a Seale

Signed Sealed & Deliurd in pu^rsence of

Simeon Stoddard

Js^a Addington

Own^d in Court 30. July 1679. by m^r Rock attests Js^a Addington Cler.

Vera Copia Attest^r Js^a Addington Cler

S. F. 1965.9

An Jnventory of sundry Brewing Vessells and household Stuffe belonging to Sarah Frankes widow w^{ch} were delivered by m^r Simeon Stoddard to Joseph Eliott of Boston in the behalfe of s^d Sarah Frankes the tenth day of May. 1678. or thereabouts to bee again at the end and term of one yeare from thence next insuing redelivered to s^d Sarah Frankes or her Assignes in as good order and condicion as the s^d Eliott then rec^d them

	£	s	d
Jmp ^{rs} 16. Beer barrells at 2 ^s per bb	1	12	00
.6. Baggs at 2s	0	12	00
.1. copper ready hung and fix ^t	12	00	—
.1. mash tubb	1	10	—
.2. great Coolers	1	10	—

	£ s d
.4. troughs	0:18:—
.4. tubbs	0:06:—
.6. Traves	0:06:—
.2. Brewing tooles and one paille	0:04:—
.1. piggin and .1. halfe bushell	0:03:—
.1. large Fatt	3:10:—
.12. quart potts and .1. pint pot	2:08:—
.1. great Funnell with a brass Snoutt	0:05:—
one Bedsteed one Bed one Bolster. one Rugg one blanket, one table and one matt in the great Chamber	2:07:—
one Bedsteed one Bed two bolsters one Rugg and one blanket	1:10:—
one Table and one Forme	0:03:—
two Tables and two Formes	1:10:—
two Chamber potts	0:05:—
one paire tongs and a Slyce	0:03:—
three candlesticks and .1. gill pot	0:02:06
	<u>£.31:04:06</u>

Simeon Stoddard and Jn^o Viall Jun^r made Oath in Court. 28^o Janur^o 1680. of the delivery of the above mentioned goods to Joseph Eliott at the prizes Specified

J: Addington Cl^r^o

The following deposition (S. F. 1965.15) is one of many on file that testify to the “disatisfactory” quality of the beer brewed by Messrs. Eliot, Yale, and Rocks, which led to their abandoning both the business and the brewing vessels:

The Deposition of Rich^d Collacot aged Seventy five yeares or thereabout testi-
fith and Saith that hee the s^d depon^t being appointed a Tythingman for the North
end of Boston and m^{rs} Frankes having let her licence for retailing of beer and
Cider to one Ioseph Elyot, the same was disatisfactory to sundry persons of the
Neighbourhood, but in a short time the s^d Elyot ran away, and then s^d Licence &c
was assigned (as wee understood) by m^r Rock to one Smith, which was greater
occasion of trouble and disatisfaction, upon which complaint was made to the
Hon^{ble} County Court by the Tythingmen, who ordered the Signe to bee pulled
down, and the s^d Smith to pay as a fine five pounds and the s^d Deponent being
chosen to bee a Grandjury man, himselfe with sundry others of the Grandjury
moved to the Honord Court whither they that kep^t houses for publique enter-
tainm^t by Assignem^t of Licences were not presentable as being contrary to Law
and the s^d Hon^{ble} Court then gave their Judgem^t on ye Affirmative and accord-
ingly they were presented and further Saith not.

Sworn in Court .30. July. 1679.

attests Js: Addington Cler.

Vera Copia Attest^r Js^a Addington Cler

Joseph Rock’s petition, upon which the bond was chancered, follows
(S. F. 1965.7):

To the Honord County Court now sitting in Boston July: 29th 1679.

Joseph Rock his petition and Request for the Chancery of his Bond given to m^{rs} Frankes.

Wherein hee cannot but own & acknowledge his great rashness & inconsiderateness in becomming bound for such a loose person as Eliott, and so much a Stranger to him, Neither can hee but take notice of m^{rs} Frankes great ingratitude to the Town and Court the granters of her Licence in assigneing of the same to such an one as neither Court nor Town would approve of and by which meanes principally I am drawn into such a Snare: Now hee humbly intreats yo^r Hono^{rs} to consider that his Obligation is for one hundred and twenty pounds, and in the condition of the Obligacion there is some brewing Vessels and other Lumber that are to bee returned or made good to m^{rs} Frankes; now m^r Simeon Stoddard in behalfe of m^{rs} Frankes hath received the greatest part of these things & my engagement to make all the rest good, So that there is onely Forty pounds which was to bee paid for the Licence, of which Five pound is already paid as is fully made appear m^{rs} Frankes did assigne this Licence for one whole year, and the same power that granted the Licence to m^{rs} Frankes tooke it away from her Assignee before one whole halfe year was expired, and at another Court as I remember declared all persons that Sold drinke by Virtue of the Assignem^t of a Licence were presentable as Law breakers and accordingly were presented So that there cannot bee due to m^{rs} Frankes by the aboves^d bond above ten or Fifteen pounds at the most.

Yo^r petition^r therefore humbly intreats the favour of yo^r Hono^{rs} to consider the pu^misses and to Chancery his bond to such a Summe as yo^r Hono^{rs} in justice and Equity see meet, considering that what hee is Iudged to pay wilbee wholly in his own wrong hee never being like to have the value of two pence repaid again. So shall hee ever pray. &c^a

Still unsatisfied after the chancering, Rock appealed, his lengthy reasons (S. F. 1965.5) containing principally complaints against the looseness of his partner Eliot and the grasping nature of the widow Frankes, to which the widow's attorney replied (S. F. 1965.6) with a disparagement of "m^r Rockes frivolous Assertions."

The Court of Assistants (Records, i. 142) confirmed the judgment of the County Court, with 37s 8d costs. But Rock began another action in the session of January, 1680/81, which had the same result, both before the County Court (S. F. 1965.2 and 25900), and upon appeal (Records of the Court of Assistants, i. 180-81).]

DEWER cont^a NEALE

Thomas Dewer plaint. cont^a Andrew Neale Defend^t The plaint. withdrew his Action.

BRIDGHAM cont^a PAINE &c^a

Jonathan Bridgham plaint. cont^a Moses Paine Sen^r Daniel Turell Sen^r as Adm^{rs} to the Estate of Iohn Clear Iunio^r late of Boston

dece^d Defend^t in an action of debt of Eighty nine pounds money due to him from the Estate of s^d Iohn Clear for the Forfiture of a bond dat^d 5. Feb^r 1677. with damages &c^a. . . . The Iury . . . found for the plaint. Forfiture of the bond Eighty nine pounds money and costs of Court: Vpon Request of the plaint. hee craving onely his principall: The Court chancered this Forfiture to Forty three pounds thirteen Shillings in money & costs of Court allow^d thirty Shillings six pence.

Execution issued. 6. Aug^o 1679. [596]

CRADDOCK cont^a BALSTON

Thomas Craddock plaint. cont^a Iohn Balston Defend^t in an action of the case for refusing to pay to the plaint. Seven pound money due unto him for wages for Service done by him in the Ship Adventure whereof s^d Balston was ma^r from London to Boston in New-England the plaint. being Shipped by him. 22th February last or thereabouts and continued the Voyage to this place untill the time of her delivery here as shalbee made appeare. . . . The Iury . . . found for the plaint. Seven pounds in money and costs of Court allow^d twenty one Shillings two pence

Execution issued 5. aug^o 1679.

GUTTERIDGE cont^a SEXTON

Robert Gutteridge plaint. cont^a Thomas Sexton master of the Ship Indeavour Defend^t according to Attachm^t The plaint. was nonsuted in failure of his process mistakeing the Ship's name, putting Indeavour for Elizabeth

FOY cont^a CLEARE

Iohn Foy plaint. cont^a Iane Cleare Widdow Defend^t in an action of the case for not delivering up unto the plaint. the dwelling house &c^a that Richard Cleare formerly dwel^t in which is the plaint^s according to the order of the County Court held in Boston by Adjournm^t 6th February. 1678. whereby the plaint. is damnified the Summe of one hundred and thirty pounds money or thereabouts. . . . The Iury . . . found for the plaint. possession of the house Sued for and costs of Court allowed Fifty five Shillings.

Execution issued 2^d aug^o 1679.

LAMB cont^a WILLIAMS

Joshua Lamb heir to part of the Estate of Iohn Alcock physitian dece^d in right of mary his wife daughter & Exec^x to the s^d Iohn Alcock and also as Attourny to Benjⁿ Walker in right of George Alcock dece^d Iohn Alcock, Zechariah Whitman in right of Sarah his wife Ephraim Hunt in right of Ioannah his wife and Cap^{tn} Iohn Hull Guardian to Palsgrave Alcock & Elizabeth Alcock Children and heires to the s^d Iohn Alcock dece^d plaint. cont^a Iohn Williams of Boston sometime Attourny to Iohn Greene Agent or as one that was appointed by the Hon^d County Court of Boston for the managem^t of the Estate of the s^d Iohn Alcock in behalfe of the Children heires & Exec^{rs} of the s^d Iohn Alcock Defend^t for that the s^d Iohn Williams refuseth or neglecteth to give a true and just Accompt unto the s^d Ioshua Lamb Attourny as afores^d of all and singular the debts profits and produce of all or any the Lands & Estate of the s^d heires committed to the care and custody of him the s^d Iohn Williams by the s^d Greene for the uses afores^d lying and being upon Block Island and Road Jsland in New-England and parts adjacent due from any person or persons there resideing and for refusing to return and pay the effects thereof received by him the s^d Williams to the s^d Lamb for the use of the heires afores^d whereby they are damnified more then two hundred and Fifty pounds in money. . . . The Jury . . . found for the plaint. that the Defend^t give unto the plaint. a just and true Acco^t of the Estate committed to him by m^r In^o Greene for the use of the heires and Children of m^r Iohn Alcock with the effects rec^d by the Defend^t to the plaint. by the first of October next or pay unto him Six hundred pounds in money & costs of Court. [597]

GILBERT cont^a PAYSON

William Gilbert plaint. on appeale from the Judgem^t of the Worpp¹¹ Joseph Dudley Esq^r cont^a Samuel Payson Defend^t The Judgem^t Reasons of Appeale and Evidences in the case produced being read and committed to the Jury which are on file: The Jury . . . found for the Defend^t confirmation of the former Judgem^t and adde Eight Shillings money damage and costs of Courts.

ADDAMS cont^a JAY &c^a

Jonathan Addams plaint. cont^a Joseph Jay and Nathanael Beale or either of them Defend^{ts} in an action of the case for non performance of their bargain which was to give a legall title and assurance of a parcel of Land at the North end of Boston sold by pur^sent Defend^{ts} unto the plaintife and ten pounds mony money rec^d in part of payment; which they detain and refuse to give title for y^e Land &c^a wth damages: . . . The Jury . . . found for the Defend^t costs of Court allow^d Eighteen Shillings eight pence.

GIFFARD cont^a WALTER

John Giffard plaint. cont^a Thomas Walter Defend^t The plaint. was nonsut^d in failure of process not rightly denominating the Defend^t and costs grant^d y^e Defend^t Four Shillings six pence.

Executⁿ issued. 10th Nov^r 1679.

BYFEILD cont^a WALLIS

Nathanael Byfeild Executo^r of Cap^t Thomas Clarke dece^d plaint. cont^a Nathaniel Wallis Defend^t in action of debt to value of about two and twenty pounds four Shillings due by booke with damages. . . . The Jury . . . found for the plaint. two and twenty pounds four Shillings money & costs of Court allow^d thirty one Shillings two pence.

Execution issued. 5^o aug^o 1679.

DAFFORNE cont^a KEEN

John Dafforne Attourney to Iames Matthews of New-yorke plaint. cont^a John Keen Defend^t in an action of the case for not paying the Quantity of 1051 Gilders 10 Stivers wampum or the value of £:26.5:9. or thereabouts in money due to s^d Matthews upon Account with due Interest and damages &c^a. . . . The Jury . . . found for the plaint. twenty Six pounds five Shillings nine pence in money and costs of Court allow^d thirty three Shillings.

Execution issued pr^o Octob^r 1679.

[See Keen v. Matthews, below, p. 1078.]

HOLOWELL cont^a SAXTON

William Holowell plaint. cont^a Thomas Saxton jun^r ma^r of the Ship Elizabeth Defend^t in an action of the case for not paying the Summe of thirty Six pounds or thereabouts in money due to the plaint. for Stuffle used and worke done upon the s^d Ship by the plaint. and his Jmploiers by order of the s^d Saxton in the year 1678. with damages: . . . The Jury . . . found for the plaint. Eighteen pounds Six Shillings six pence money and costs of Court allow^d Sixteen Shillings and ten pence. [598]

HULL cont^a MARYON &c^a

Cap^{tn} John Hull plaint. cont^a Iohn Maryon Senio^r and Samuel Sewall Administrato^{rs} to the Estate of Thomas Batt Tanner late of Boston dece^d Defend^{ts} in an action of the case for non payment of Fifty pounds in money due to the plaint. as shalbee made to appeare with damages: . . . The Jury . . . found for the plaint. Forfiture of the bond One hundred and Six pounds money and costs of Court. At Request of the partys The Court chancered this Forfiture to Sixty five pounds Six Shillings money and costs of Court allow^d twenty Eight Shillings.

Execution issued 4^o Aug^o 1679.

SILLEY cont^a THAYER

Thomas Silley plaint. cont^a Zachariah Thayer Defend^t in an action of the case for non payment of thirty pounds money due by bond. dat^d 19th February. 1678. wth damages. . . . The Jury . . . found for the plaint. thirty pounds money and costs of Court. Vpon request of the Defend^t and hearing of both partys The Court chancered this Forfiture to Six pounds twelve Shillings six pence in money being in full of the condition (the plaint. owening the receipt of nine pounds) and costs of Court.

LEGG cont^a ORRIS

Samuel Legg plaint. cont^a Experience Orris Defend^t in an action of the case for not paying the Summe of three pounds eleven Shillings four pence money due upon the ball^a of Acco^t as shall appeare by bill under the hand of s^d Orris dat^d 15^o Ianuar^o 1678. wth damages:

. . . The Jury . . . found for the plaint. three pounds eleven Shillings four pence money and costs of Court allow^d two and twenty Shillings six pence.

Execution issued 11^o Aug^o 1679.

LEGG cont^a FLOOD

Samuel Legg plaint. cont^a James Flood Defend^t in an action of reveiw of a case tried at the County Court held at Boston in October. 1677. where the s^d Flood obtained Judgem^t ag^t the s^d Legg for about Seven pounds in money and costs of Court from which Judgem^t the s^d Flood appealed to the Court of Assist^s in march. 1677/8. where hee obtained a Verdict for the addition of the Summe of about nine pounds in money including costs of Courts w^{ch} is to the plaint^s damage about Sixteen pounds in money &c^a. . . . The Jury . . . found for the Defend^t costs of Court: The plaint. appealed from this Judgem^t unto the next Court of Assistants and put in security for prosecution thereof to Effect.

[The review of an action to recover seamen's wages which had already been decided in favor of Flood at the October session, 1677 (see above, p. 858), and the judgment sustained (with augmented damages and costs) by the Court of Assistants (Records, i. 110).

S. F. 1789.5

Nath^l Williams Sworn Saith that sometime after the case between James Flood and m^r Sam^l Legg was heard and determined in the Court of Assistants wherein an addition of about Seven or eight pounds was given by the Iury unto the s^d Flood, this Deponent discourseing with some of the Iury how they came to finde so much ag^t Legg Answer by some of the Jury was made that they had Spent a great deale of time about that Action, yet at first had brought it within a Shill or thereabouts to the County Courts Judgem^t but some of the Iury living in the Country stood out ag^t it so they found an addition as afores^d w^{ch} was to the admiration of the Deponent who was then s^d Leggs Attourney and farther Saith not.

Sworn in Court pr^o Aug^o 1679.

attests J. Addington Cler.

Legg's Reasons of Appeal (S. F. 1789.3) rehearse the points made in his appeal from the earlier judgment (above, p. 859), and add a new one:

3^dly: Becauss the defend^t hath Bin allowed tenn Daies pay when wee lay att the Castle imbargoed By the Athority of: this place and nothing Better known then y^t durezza restraint of princes & powers Ships and men are outt of pay and y^t Imbargoe was made By the Councle for the prevention of the distemper of the

Smal pox Some persons haueing had itt in ou^r Shipp coming from London Thes Things Being Duely Considered the plentiffe: Conceiues y^t itt will Evidenly appear To the Hond Court & Jury y^t thare is one months pay To be Repaid to the Appellant By the defend^t: wich is proued; Flood: promising to allow vppon the Shippes going for London wich is three pound, fue Shillings and for fifteen dayes Being outt of pay att London wich is thirty two Shillings & Six pence & his halfe pay while in the Riuer of Theams wich is fower pounds one Shilling & three pence & for tenn Dayes lying at y^e Castle vnder imbargoe wich is twenty one Shilling & Eight pence &: that this Court & Gentlemen of the Jury will see Just causs to giue Judgm^t for the forementioned Summes & So Reverss the former Judgm^t & Releiu the Appellant who hath Ben verry much wronged & abussed By the defendant yo^r Humble Sarvant

Sam^{ll} Legg

These Reasons were rec^d 28^o aug^o 1679.

Js^a Addington Cler

The Court of Assistants (Records, i. 142) reversed the judgment and found *3l 9s 9d* damage and costs for Legg.]

OLIVER cont^a WHALEY

Nathanael Oliver plaint. cont^a John Whaley Defend^t The plaint. withdrew his Action upon a judgem^t Acknowledged. [599]

MACKARTY cont^a GREENLEEFE

Thaddeus Mackarty Attourney to Alwin Childe plaint. cont^a Enoch Greenleeffe Senio^r Defend^t in an action of debt of twenty three pounds twelve Shillings in money due by bill under his hand dated. 5th Feb^r 1677. wth interest and damages: . . . The Jury . . . found for the plaint. twenty three pounds twelve Shillings money according to bill and costs of Court allowed twenty Eight Shillings.

WARNER cont^a FRANKLYN

John Warner plaint. cont^a Benjamin Franklyn Defend^t in an action of reveiw of a case tried at the County Court held at Boston. 29th Octob^r 1678. where Katharin Franklyn as Attourney to Benjamin Franklyn obtained judgem^t against the now plaint. for twelve pounds Seven Shillings in money & costs of Court granted twenty Shillings which is to the plaint^s damage with all other due damages &c^a. . . . The Jury . . . found for the Defend^t costs of Court. The plaint. appeal^d from this Judgem^t unto the next Court of Assistants &c^a

[See Franklyn v. Warner, above, p. 948. Warner went to sea without paying his board, leaving behind a trunk full of linen, which, according to some accounts, the landlady broke open. The bill follows (S. F. 1809.4):

John Warner Debter. 1677.

May. 15.

For dyet and Lodging from may .15 to Ianuary .10. day .32. *li s*
weekes and .3. dayes at: 6^s per weeke 09:15:—

Septemb^r

21. Jt one barr^{ll} of pickled mackrell —:18:—

Jt in Cash Lent —:02:—

Jt paid for John Wampus by Iohn Warners order to Goodman

. Earll —:17:—

June .5.

1678: For .4. weekes dyet 01:04:—

Jt one pair of Shoes —:06:—

D—13:02:—

Sworn in Court .29^o October .1678. by Benjamin Franklyn to bee a just and true Acco^t being compar^d with his booke.

Js^a Addington Cler.

The Court of Assistants (Records, i. 144) reversed the Judgment for the following reasons (S. F. 1809.9):

The Reasons of y^e Verdict Jn the Case betwixt Jn^o Warner & Katherine franklin

1 Their was noe goods Attached & soe noe foundation for A tryall or Judgm^t

2 The deft was out of y^e Country & Judgm^t Should not haue bine entred vntill y^e next Court but this being entred: See Attachmts Sumon[ses] Sect [1]

3 The deft vnd^r aige vnd^r 21 yeares when y^e Judgm^t Graunted

4 Noe Suficient prooffe of y^e Debt — only y^t hee did Lodg their wee know not vpon wt Tearmes

Jn the name of y^e Jury

Ant Checkley fore^{mn}]

CHOCK cont^a BARNES

Peter Chock plaint. cont^a Nathaniel Barnes Defend^t in an action of debt of thirteen pound one Shilling in money due by booke with damages: . . . The Jury . . . found for the Defend^t costs of Court.

DANIEL cont^a ALLISON

Thomas Daniel plaint. cont^a Iames Allison Defend^t in an action of the case for disposing of a parcel of wines contrary to his order and not delivering them according to bill of Loading w^{ch} was done

in the year. 1678. by which s^d Daniel is damnified £.250: or so much as shalbee made appeare with other due damages; . . . The Jury . . . found for the plaint. two hundred and Fifty pounds in money and costs of Court allow^d thirty one Shillings six pence.

Execution issued 17^o October. 1679.

BENNETT cont^a BENNETT

Elisha Bennet or his Lawfull Attourney plaint. cont^a John Bennet Defend^t This Action by order of Court is continued unto the next Court of this County.

BEALE cont^a JAY

Nathaniel Beale of Hingham plaint. cont^a Jone Jay Widdow Defend^t in an action of debt to the value of Five pounds Seventeen Shillings and a penny due to the said Beale in money to ballance an Account made up between them on the. 7th May. 1679. with damages: . . . The Jury . . . found for the plaint five pounds Seventeen Shillings one penny in money & costs of Court allow^d twenty six Shillings six pence

Execution issued. 18^o Decemb^r 79. [600]

COLEMAN cont^a ATHERTON

William Coleman plaint. cont^a Watching Atherton Defend^t The plaint. withdrew his Action.

NEALE to DEWER

Andrew Neale personally appearing in Court confes^t Judgem^t against his Estate and person unto Thomas Dewer for nine pounds nine Shillings to bee paid in money according to bill on file with charges.

Execution issued 25^o aug^o 1679.

SNOW to WRIGHT

Samuel Snow personally appearing in Court confessed Judgement against his Estate and person unto Cap^{tn} William Wright for Five pounds ten Shillings to bee paid in money.

Execution issued. 3^d 7^{br} 1679.

GROSS to WADE

Clement Gross personally appearing in Court confessed Judgem^t against his Estate and person unto m^r Jonathan Wade of Jpswich for two and twenty pounds three Shillings six pence to bee paid in money according to bill on file with charges.

BOSWORTH &c^a Fin^d

Deacon Nathan¹¹ Bozworth of Hull and George Vickery of the same Ioseph Iacob of Hingham and Tho: Berry of Boston were fined twenty Shillings apeice for not attending their Service upon the Jurys according to their Summons.

MAN cont^a HEWS

John Man plaint. cont^a James Hews Defend^t in an action of the case for withholding from him the s^d Man the Summe of Nine pounds and Eleven Shillings in money being so much hee paid unto Major Thomas Savage as hee was Surety together with William Ingraham for the wife of s^d Hews for her paying the Rent for two Chambers which Shee hired of s^d Savage at five pounds money p^r Annum in the year 1675. which Rent the plaint. hath been forced to pay with other incident charges whereby hee is damnified the aboves^d Sume with other damages &c^a. . . . The Jury . . . found for the Defend^t costs of Court.

[This case had a curious sequel, as the following document of 1679/80 (S. F. 1824) shows. See below, p. 1074, for review of the case.

To the Honrd Gov^r & Councill, assembled at Boston
The Petition of Iohn Man in the behalf of James Hughes
Humbly Sheweth

Wheras the sd Iames Hughes is become Servant to yo^r Pet^r & delivered to him by Execution according to Law, & the sd Hughs hath also testified upon Oath that hee is not worth five pounds, Since w^{ch} time Thomas Hill hath by a later Execution secured sd Hughs in Prison, & ther keepeth him, wherby Yo^r Pet^r is mu[ch] damaged by want of the Improvem^t of sd Hughes therby to work him self out of debt, & s^d Hughs his family reduced to a very mean & poor Condition, & like to be chargeable to the towne if not remedied by yo^r Honn^{rs}, and also wheras the Said Hill refuseth to pay prison fees,

Therefore humbly prayeth Your Honno^{rs} that Yll please to grant liberty forth of prison for sd Hughs, that so hee may, by work, pay his sd Debts, & provide for his family, y^t so the Town may not bee charged with them and your Pet^r Shal ever pray et^o

Boston Feb^r 24. 1679]

SHEPARDSON &c^a cont^a Ship W^m & Tho:

George Shepardson William Garland and John Browne Marrin^{rs} plaint^s cont^a Ship William and Thomas of Nevis, W^m Wheeler Commander Defend^t in an action of the case for non payment of the Summe of Sixteen pounds four Shillings or there abouts in money due unto them for worke and Service done in s^d Ship from the. 24th day of April last to the day of the date hereof. Viz^t To George Shepardson £.4:16:0: To W^m Garland £:6: To John Browne £:5:8:0. the detaining of which is to the plaint^s damage the summe aboves^d with damages &c^a. . . . The Jury . . . found for the plaint^s To George Shepardson four pound Sixteen Shillings money To W^m Garland Six pounds money To Jn^o Browne five pound Eight Shillings [601] money totall Sixteen pounds four Shillings and costs of Court allowed Forty Seven Shillings.

Execution issued. 5^o aug^o 1679.

PAINE &c^a cont^a Ship W^m and Thomas

Peter Paine Andrew Dirickson and Richard Horton plaint^s cont^a Ship W^m and Thomas of Nevis W^m Wheeler Commander Defend^t in an action of the case for non payment of wages due to them for worke done by them on board s^d Ship to value of two & twenty pounds three Shillings in money being Shipped by s^d Wheeler Peter Paine at one pound Sixteen Shillings per month in money and s^d Dirickson at one pound and thirteen Shillings per month in money, and Richard Horton at one pound and ten Shillings per month in money, being Shipped. 11th march last past & still under pay, with damages. . . . The Jury . . . found for the plaint^s To Peter Paine eight pounds two Shillings in money To Andrew Dirickson Seven pounds Six Shillings money To Richard Horton Six pounds Fifteen Shillings money Totall two and twenty pounds three Shillings and costs of Court allow^d Forty Six Shillings

Execucion issued. 5^o aug^o 1679.

VSHER &c^a cont^a SAXTON

John Vsher and John Waite Attournies of Majo^r Richard Waldron Adm^r of the Estate of Nathaniel Elkin dece^d plaint. cont^a Thomas Saxton Defend^t according to Attachm^t The plaint^s were non Suted upon non appearance.

TIPPEN cont^a ROSE

Bartholmew Tippen Agent of Major Thomas Clarke plaint. cont^a Roger Rose Defend^t upon Replevin: The Replevin & Evidences in the case produced being read and committed to the Jury which are on file, The Jury . . . found for y^e plaint. the goods replevied, twenty Shillings money damage & costs of Court.

JOHNSON Sent^a

Solomon Johnson convict^d by his own confession in Court of Stealing thirty Seven yards of Ozenbriggs from John Maryon Sen^r it being found with him: Sentenced to bee whip't with ten Stripes and to pay unto John Maryon three pounds fourteen Shillings money being 3^{b^{le}} damages according to Law and fees of Court standing committ^d &c^a

SAVAGE & HUTCHINSON'S Reference

The Court accepts the Reference made to them by m^r Ephraim Savage and Captⁿ Elisha Hutchinson of issuing of all differences upon Acc^o depending between them as they stand related to the Estate of m^r Obadiah Walker and m^r Iohn Freake dece^d and do appoint m^r Iohn Ioyliffe, m^r James Whetcombe and m^r Iohn Walley a Committee to Audit the Acco^{ts} between them and to make their report thereof to this Court.

WHALEY to OLIVER

John Whaley appeared in Court and confessed Iudgem^t against his Estate and person unto Nathanael Oliver for Fourteen pounds thirteen Shillings and Six pence to bee paid in money according to bill on file with charges. m^r Nathanael Oliver appeared in the Office pr^o Novemb^r 1679. and acknowledged that hee had rec^d full Satisfaction of the abovewritten Judgem^t

Js^a Addington Cler.

Freemen Sworn

m^r Samuel Man of Milton, John Lazell of Hingham, Timothy Stevens, John Ruggles and Iohn Chandler of Roxbury, all tooke the Oath of Freedom. Likewise did m^r Paul Dudley and m^r Anthony

Checkley of Boston. Ebenezar White, John Rogers and Jn^o Hunt of Waymouth. [602]

Order to m^r GLOVERS

Jn Answer to the petition of m^r Thomas Hinckley & Nathanael Glover relating to their Interest in the Farme of m^r John Glover sometime of Dorchester dece^d called Newberry Farme: Jt's ordered that m^r Iohn Glover and m^r Pelatiah Glover under whose managem^t it appeares, the s^d Farme hath been since the decease of their mother do bring in their Acco^{ts} of what Rents they have rece^d from the s^d Farme and disburstments made thereupon Together with what debts are yet remaining due to bee paid out of the s^d Farme unto the next Court of this County that so a finall issue and division bee made thereof.

PARKER Fin^d £5.

Moses Parker convicted of obscene carriages drawing out his yard in the pu^rsence of many persons at Roxbury Ordinary, Sentenced to bee whip't with twenty Stripes or to pay Five pounds in money fine to the County and fees of Court standing committ^d &c^a

BROWNE Sent^a

Elisabeth Browne of Charlestown convict^d of lewd wanton and uncivill carriages Sentenced to bee forthwith severely whip't with twenty Stripes and then returned to prison there to remain one month and then to bee conveyed to Charles town and again severely whip't with twenty Stripes and to pay Fees of Court and prison standing committ^d &c^a

MINOTT Fin^d 10^s

John Minot complained of for riotous carriages and strikeing and wounding of Joseph Skelton, Upon a full hearing of the case and evidences produced The Court Sentenc^d him to pay ten Shillings money fine to the County, ten Shillings in money to Joseph Skelton with charges of prosecution and fees of Court standing committ^d &c^a

Order for HAYDENS releife

Upon Complaint to this Court of the necessitous condition of Susanna Hayden of Brantery The Court Order the County Treasurer

to pay her twenty Shillings and Order the Selectmen of Brantery to make due provision for her and her Husbands reliefe and maintenance for future.

Henry Harwood principle and Ralph Carter Surety bond of twenty pounds forfit^d upon Harwoods non appearance.

JORDAN Fin^d 3^s 4^d

John Iordan convict^d by his own confession of excessive drinking Sentenc^d to pay three Shillings four pence money fine to the County charges of witnesses and fees of Court.

RICE Fin^d £:6.

Samuel Rice convict^d by his own confession in Court of Selling three pints of Rhum to Indians Sentenc^d to pay Six pounds in money fine to the County according to Law and fees of Court standing committ^d &c^a

WATERS whip't

Thomas Waters Tinker convict^d by testimony & his own confession in Court of profane Swearing &c^a Sentenced to bee whip't with Fifteen Stripes or to pay Forty Shillings money fine to the County and fees of Court, And is ordered to depart this Colony within four dayes after his receiving his punishm^t on the penalty of being imprisoned during the Courts pleasure [603]

[See Records of Court of Assistants, i. 158.]

Order relating to m^r BENDALLS Estate

Upon Information of the Administrato^{rs} of the Estate of m^r Free Grace Bendall dece^d that the Children of the s^d m^r Bendall formerly disposed of amongst Freinds are now comming into their hands upon charge The Court Order them to improve the ballance of the Acco^t in their hands and the whole remaining Estate (after the paym^t of debts) for the education of the Children untill they come of age to bee put out according to their best discretion.

JOHNSON Admonish't

John Johnson Cbler present^d and convicted by his own confession of negligence and promised amendm^t was admonish't and ordered to pay fees and discharged.

PETER Indian Sent^a

Joseph Peter an Indian charged by Iohn Waite for Stealing a Beaver Skin from him valued at Fourteen Shillings and a hat 18^d w^{ch} s^d Ioseph owned in Court that hee had and Sold but charged one Abram Indian to have deliurd them unto him; Sentenc^d to pay unto m^r Iohn Waite Forty two Shillings money being treble damages according to Law and fees of Court standing committ^d &c^a And order that Indian Abram remain in prison untill Joseph Peter procure his evidences against him.

PHILLIPS Sent^a

Sarah Phillips Servant unto W^m Green of Boston convict^d in Court by her own confession of Stealing mony from her Ma^r rideing away in mans Apparrell and having a bastard Childe She knoweth not (Shee Saith) by whome begotten, Sentenced to bee forthwith whip't with Fifteen Stripes and a Fortnight after to bee whip't again at Charlestown with Fifteen Stripes and to pay unto her ma^r Green 3^{ble} damages according to Law, hee defalkeing what hee hath already received, and to pay fees of Court and prison standing committ^d &c^a and order y^t in case her Ma^r do not discharge her of the prison upon her receiving her 2^d punishm^t the keeper is ordered to dispose of her for his Satisfaction and to pay the overplus to her Master.

WATERS Complaint

Upon complaint made to this Court by Elizabeth Waters that her Husband W^m Waters doth refuse to allow her victuals clothing or firing necessary for her Support or liuelihood and hath acted many unkindnesses and cruelties towards her: The Court having sent for the s^d W^m Waters and heard both partys, do Order that the s^d Waters bee admonish't for his cruelty and unkindness to his wife, and that hee forthwith provide Suitable meate drinke and apparrell for his s^d wife for future at the Judgem^t of m^r Edward Rawson and m^r Rich^d Collacot or allow her five Shillings per weeke.

SMITH Fin^d 10^s

John Smith and Mary his wife complained ag^t & convict^d by testimony of Suffering disorders in their house Sentenc^d to pay ten

shillings mony fine to the County and fees of Court standing committ^d &c^a

DYER Fin^d £:5.

Gyles Dyer convicted of Selling wine by retaile without licence Sentenc^d to pay Five pounds in money fine to the County according to Law and fees of Court And in answer to his petition hath Licence granted him for future to retaile wine out of [604] dores by small Quantities hee giving bond not to transgress his Licence nor to Suffer any to bee dranke in his house, and himselfe and Jabez Salter were accordingly bound unto the Treasurer for the County in the Summe of ten pounds.

SALTER Fine^d £.5.

Mary Salter Widdow convicted by testimony of retailing Rum without Licence Sentenc^d to pay Five pounds in money fine to the County according to Law and Fees of Court.

BURNELLS complaint and Order

Upon complaint of Sarah Burnell Widdow of W^m Burnell sometime of Boston dece^d that her Son Samuel Burnell hath the Estate that was left by her s^d Husband in his hands & refuseth to releive her or yeild her any Succor or maintenance therefrom: The Court Orders that the s^d Widdow bee forthwth put into possession of the Chamber. Shee formerly had in her Son's house or other at the Judgem^t of Cap^{tn} John Richards and L^t Daniel Turill and bee paid five Shillings in money per weeke by her Son untill the next Court of this County.

TAILER &c^a to HULL

William Tailer John Scarlet and Elisha Hutchinson Adm^{rs} of the Estate of Free Grace Bendall dece^d appearing in Court. 2^d Aug^o 79. confessed Judgem^t against the s^d Estate in their hands unto Cap^{tn} John Hull in behalfe of the Exec^{rs} of m^r Thomas Parris of London for the Summe of Sixty Six pounds Fourteen Shillings in money remaining due upon a bond on file.

Execution issued. 17^o Janur^o 1680.

TAILER &c^a to HUTCHINSON

William Tailer and Iohn Scarlett as Adm^{rs} of the Estate of m^r Free Grace Bendall dece^d appearing in Court. 2^d Aug^o 1679. confes't Judgem^t against the s^d Estate in their hands unto Cap^t Elisha Hutchinson Adm^r of the Estate of m^r Iohn Freake dece^d for forty two pounds Seventeen Shillings and eleven pence in money due upon ballance of Accompts.

Execution issued. 17^o Janur^o 1680.

The Court Adjourn^d to Thursday August. 7th at nine forenoon.

7^o Aug^o A^o 1679.@

The Court met by Adjournm^t

Present

S: BRADSTREET Esq^r Gov^r
EDW^d TYNG Esq^r

JOSEPH DUDLEY } Esq^{rs}
HUMPR^o DAVIE }

[BATT's Guardian]

John Benjamin of Watertown is allow^d Guardian to his Grand daughter Batt, hee giving bond according to Law.

[DOWGAN's Sentence]

John Dowgan Serv^t to William West complain^d of by his s^d ma^r for theft and other misdemeano^{rs} his ma^r hath Liberty to dispose of him to any of the English Nation beyond Sea for one yeare more then his remaining time paying his Court and prison Fees. [605]

BUMSTEED Fin^d £:5.

Jeremiah Bumsteed convicted in Court by his own confession of Selling Strong Beere without Licence Sentenc^d to pay five pounds in money fine to the County according to Law and fees of Court standing committ^d &c^a

DENNIS Fin^d £.5.

James Dennis convict^d in Court by his own confession of Selling strong beer without Licence, Sentenc^d to pay Five pounds in money fine to the County according to Law & fees of Court.

BARBUR Sent^a

Thomas Barbur complain^d of by Return Waite Marshall for abusing and Strikeing of him in the Execution of his Office which Barbur Own^d Sentenc^d to bee whip't severely with ten Stripes or to pay Forty Shillings money fine to the County and twenty Shillings money to Marshall Waite and Fees of Court and prison standing committ^d &c^a

WIETT his discharge

Edward Wiet of Dorchester by reason of age & infirmities attending the same is freed from attending upon Ordinary Traynings, hee keeping two good fire Armes in his house liable to the Clerkes veiwe, alwaies in areadiness for the Country's Service.

DAVIS Sent^a

Samuel Davis Iun^r complain^d of by his Ma^r Arthur Mason for severall misdemeano^{rs} as Stubborness neglect of his buisness and lying out of his Family by night and for Stealing from him Fifteen pounds money: The Court having duely weighed and considered the Compl^t and evidences produced Sentenc^d him to pay unto his Ma^r Mason Forty five pounds money being treble damages according to Law and Fees of Court and prison Likewise to give in Security by two sufficient Town dwellers to the Satisfaction of the Court for the value of two hundred pounds for his good abbearence standing committ^d untill this Sentence bee performed. At Adjournm^t of the Court. 21^o aug^o 1679. The Court grant Liberty to m^r Mason to make Sale of s^d Davis in any English plantation not exceeding Four years in case hee do not Satisfy him according to the abovewritten Sentence.

WALTER charg^d & Acquitt^d

m^r Thomas Walter being charged by m^r Iohn Giffard for feloniously taking away his goods: Upon a full hearing of the case The Court do not Judge that s^d Walter hath feloniously taken any of the goods or papers charged upon him: But forasmuch as they were left in the house deliuv^d unto him upon Execution, do order that s^d Walter do quit himselfe by his Oath that hee doth not either by himselfe or others detain any of the papers or goods charg^d upon him, who made Oath accordingly.

JN^o Negro Sent^a

John Negro convict^d by his own confession in Court of pulling Sarah Phillips of Salem off her horse and attempting to ravish her, Sentenc^d to bee whip't severely with thirty Stripes and to pay unto Sarah Phillips Five pounds money and to pay charges of prosecution and fees of Court and order that his ma^r dispose of him out of the Country standing committ^d &c^a

Auditt

Cap^{tn} Iohn Richards m^r Iohn Ioyliffe and Cap^{tn} Thomas Brattle are desired and appoint^d to Audit the Treasuro^{rs} Acco^{ts} and to make their Return to the next Court of this County. [606]

JOHNSON ordered to depart

Upon consideration of the Testimonies produced against Alexander Johnson by m^r How on suspicion of his having a hand in the abuses offered him. As also the caution entred by the Select men of Boston against his resideing in this Town; hee having lyen sometime in prison. The Court adjudge him to pay the Fees of Court and prison and so to bee discharged, and to depart this Town within twenty four houres after his discharge, and not to abide within ten miles of the Town or return again without leave from the Select men under the penalty of imprisonm^t during the Courts pleasure.

WINSLOW her Estate Setled

Jt's Ordered that the remaining Estate of m^{rs} Mary Winslow late of Boston dece^d intestate (debts Funerall expences and Legacies given by her in the declaration of her minde in writing being first paid out) bee thus proportioned among her five Children now living, and the Children of her Son Joseph Winslow dece^d (in right of their Father) in manner following. viz^t To her eldest Son a double part, and to the other Children each a single Share or part, The Estate being divided into Seven parts.

The Court Adjourned unto Thursday. 14^o Aug^o 79.

14^o Aug^o A^o 1679.@
The Court met by Adjournm^t

Order for new Clerke of the Writts

Upon severall complaints made against Ephraim Turnor Clerke of the Writts of remisness in his Office, Jt's ordered that warrant issue forth to the Town of Boston to make choice of some meete person to present unto the County Court for their approbation to bee a Clerke of the Writts for the s^d Town.

[Some explanation for Turner's remisness in office may perhaps be found in a petition of his (S. F. 1874) to the General Court in May, 1680, requesting discharge from his commission as ensign in a foot-company in Boston, on the ground of his having met "with Many discouragements Espeshaly Arising from his Being At present Jn A poor & Low Condition As to wordly Estate which he Judges Renders him vnfit for the Discharge of his Duty Jn such A place."]

JINKINS & WHITMARSH Sent^a

John Iinkins and Hannah Whitmarsh accused for wanton unclean carriages one with another: The Court having heard what was testified against them Sentenc^d them to bee whip't wth Fifteen Stripes apeice or to pay Fifty Shillings apeice in money fine to the County and s^d Jinkins ten Shillings more for his Swearing and to pay fees of Court standing committ^d &c^a and order that s^d Whitmarsh immediatly after her discharge depart the Town of Boston & return to her Freinds.

Order about Ship W^m & Thomas

Jn Answer to the petition of Iohn Browne Andrew Dirickson and George Shepardson and Richard Horton Seamen late belonging unto the Ship named the William & Thomas of Nevis whereof W^m Wheeler was late Command^r consumed in the late fire that hapned in the Town of Boston: Jt's ordered that the said William Wheeler together with the Marshall do take an exact Acco^t both of what is saved and what is Sold by the s^d Seamen which was belonging to the s^d Ship, and that there bee first paid out of it the reasonable charge of one of the Company in his late Sickness at the Judgem^t of the Honord

Gov^r and the remaind^r to bee Sold for money by the Marshall, & equally proportion^d between the Ma^r and Seamen for Satisfaction of their wages.

The Court Adjourn^d to Thursday. 21^o Instant. [607]

The Court met by Adjournm^t 28^o Aug^o 1679.

TURNOR Senta

Jonathan Turnor convict^d by his own confession in Court of Stealing Seven Beaver Skins from Rich^d Shute valued at Four pounds Sentenc^d to bee whip't with ten Stripes and to Return Richard Shute his Beaver again and to pay unto him eight pounds in money being treble damages according to Law and to pay fees of Court and prison and standing committ^d &^{ca}

PALMER &^{ca} Sent^a

Lisle Palmer and Hudson Leverett complained of by m^r Timothy Proutt Sen^r and his Son Ebenezar Proutt for quarrelling wth and strikeing the s^d Ebenezar many blows and Hudson Leverett drawing his Sword and pointing of it to m^r Proutt, The Court haveing heard and considered the case Sentenc^d s^d Palmer to pay ten Shillings money fine to the County for breach of the peace and twenty Shillings money to Ebenezar Proutt for the blows given him and fees of Court, s^d Leverett to pay twenty Shillings money fine to the County & fees of Court standing committ^d &^{ca}

WARD his Estate Setled

Jt's Ordered that the Estate of Samuel Ward late of Boston Cooper dece^d intestate amounting by Jnventory to Four hundred and thirteen pounds bee thus Setled & proportioned Viz^t One hundred and thirteen pounds of s^d Summe is granted unto Thankfull Relict and late Widdow of s^d Ward her heires and Ass for ever in leiu of her thirds or dowre and the remaining three hundred pounds is Assigned unto the Five Children left by s^d Ward, one hundred pounds thereof to the eldest Son, and Fifty pounds apeice to the other Four Children to bee paid unto them as they come of age or bee married, and in the mean

time the house & Land to stand Security, together with William Griggs his bond of two hundred pounds (who married with the Widdow) for the payment of the Childrens portions, and in the interim hee to have the use of the whole Estate for the education of the Children untill the youngest Childe come of age, keepinge the house in good repaire: And that what debts appeare to bee claimed and justly due from the s^d Estate bee paid out of the Estate each party makeing a proportionable abatem^t according to what they should have received.

WINCHESTER his Estate Setled. 29^o July. 1679.

For Setlement of the Estate of Ionathan Winchester late of Roxbury dece^d intestate: It's Ordered that Mary his Widdow enjoy the whole cleer Estate (debts being first paid) amounting by Jnventory to about twenty two pounds for her own and Childs Education & maintenance, Shee paying thereout unto Mary the onely Child left by s^d Winchester (now about one year old) the Summe of Forty Shillings, when it shall come of age or bee married.

THOMAS to RAWSON

David Thomas personally appearing before the Worpp^{ll} John Pynchon Esq^r and Humphry Davie Esq^r Assist^s 31^o Octob^r 1679. confest Iudgem^t against his Estate & person unto William Rawson for Seven pounds Seventeen Shillings & 7^d in money in full, due upon ball^a of Acco^t with charge

Attests. Js^a Addington Cler.

Execution issued. pr^o novemb^r 1679 [608]

SAISE to CHEEVER

Christopher Saise late of Charlestown personally appearing before Joseph Dudley Esq^r and Humphry Davie Esq^r Assist^s 25. Sept^r 1679. confessed Judgem^t against his Estate & person unto Bartholmew Cheever of Boston for the Summe of twenty pounds two Shillings six pence to bee paid in money according to bond with charges.

attests. Js^a Addington Cler.

Execucion issued. 26. Septemb^r 1679.

Present

SIMON BRADSTREET Esq^r Govern^r THO: DANFORTH Esq^r Deputy Gov^r DANIEL GOOKIN Esq^r Assist. and the rest of the Magistrates.
16^o 8^{br} 1679

TOWER to HARRIS

John Tower Sen^r of Hingham confessed Iudgem^t ag^t his Estate & person unto William Harris of Patuxit for Eighteen pounds money, which is in Satisfaction of charges granted him at a Court held at Providence by his Maj^{ties} speciall Command

Attests. Js^a Addington Cler.

Execution issued 9^o april: 1680.

DAVIS to THOMAS

Iohn Davis of Lyn appearing before John Pynchon Esq^r and Humphry Davie Esq^r Assist^s 29^o Octob^r 1679. confessed judgement against his Estate and person unto Alice Thomas Widdow for One hundred and ten pounds to bee paid in money in full of all Acco^{ts}

attests. Js^a Addington Cler.

Execution issued. 15^o nov^r 79.

ELLIOTT to ROCK

Joseph Eliot appearing before Major William Hathorn Esq^r and Nathanael Saltonstall Esq^r Assist^s 21^o Octob^r 1679. confes't Judgem^t against his Estate and person unto Joseph Rock for Forty five pounds one Shilling to bee paid in money.

attests. Js^a Addington Cler.

Execution issued. 22^o Octob^r 1679.

THAYER to JONES

Richard Thayer Sen^r of Brantery personally appearing before William Hathorn Esq^r and Edw^d Tyng Esq^r Assist^s 27^o October. 1679. confessed Judgem^t against his Estate & person unto Robert Jones Merch^t who married with Ann Sandys Relict and Adm^x of the Estate of Iohn Sandys Assigne of John Paine for one hundred and thirteen pounds according to bill on file, to bee paid in Porke Beife Wood & Cider at the price currant with the Merch^t.

attests. Js^a Addington Cler.

Execution issued 25^o nov^r 1679.

CHANDLER to TYNG &c^a

Ensigne Thomas Chandler of Andiver appearing before John Pynchon Esq^r and Nathanael Saltonstall Esq^r Assist^s 28^o October. 1679. confessed Judgem^t against his Estate and person unto Edward Tyng Esq^r & Joseph Dudley Esq^r for twenty Eight thousand foote of marchantable deale boards to bee delivered at some convenient landing place in Havarill or Exitor.

attests. Js^a Addington Cler. [609]

At a County Court held at Boston by Adjourn^t of the Generall Court from. 28th October. unto the 4th Novemb^r 1679. and then Set.

Present

S: BRADSTREET Esq^r Gov^r

EDW^d TYNG Esq^r
JOSEPH DUDLEY Esq^r } Ass^{ts}

Grandjury the same as at the former Court.

Jury of Tryals Sworn

m^r Bernard Trott
Abraham Gourding
Richard Knight
Sam^{ll} Garey

Iohn Withrinton
Iohn Ruggles
Ri: Phillips
Jn^o Chamberlyn

Ioseph Morse
Iosia Levit
Andrew Lane
Ion^a Fuller

FORSTER v. ROUNDALL

Miles Forster Attourney of Luke Forster of London Draper plaint. cont^a the goods money Estate or Credits of Marmaduke Roundall Defend^t in an action of debt of Four hundred pounds good and lawfull money of England due upon the Forfiture of a bond or Obligation under the hand and Seale of s^d Roundall bearing date. 14th Septemb^r 1678. with damages, . . . The Jury . . . found for the plaint. Four hundred pounds lawfull money of England Forfiture of the bond and costs of Court: The Bench chancered this Forfiture by agreement of the partys under their hands unto Forty Six pounds money being so much onely remaining unpaid and costs of Court three pounds eleven Shillings. This case was tryed at the last County Court but judgem^t not entred untill this Court according to Law The Defend^t being out of the Colony.

Execution issued. 17^o Decemb^r 1679.

WILLYS cont^a BAKER

Edward Willis Assigne of Robert Oxe plaint. cont^a Thomas Baker who married with Mary the Relict & Adm^x of the Estate of John Smith late of Boston merch^t Defend^t in an action of the case for withholding the Summe of One hundred & twenty pounds currant money of New-England due to the plaint. by Obligation under the hand of s^d Smith dat^d 3^d march. 1676/7 wth damages, . . . The Iury . . . found for the plaint. Forfiture of the bond one hundred

and twenty pounds money and costs of Court: The partys both appearing in Court declared they were agreed upon Seventy three pounds money to bee paid in full chancery of this bond without any costs.

Execution issued 10th nov^r 1679.

[A copy of the execution against Baker, 10 November, 1679, is in S. F. 1812.1, with the following return:

J Extended this Execution on part of a dwelling house Barn Orchard with Meadow Ground lying in Redding which was shown to me by Thom Baker Jun^r to be part of the estate of Jn^o Smith late of Boston deced as also an Indian Girle One feather bed one bolster. Two Pillows Two Blanketts, Serge Curtains Vallents & bedsteed fivue Silver Spoons One Small Beaker fivue p^r of Cotton & Linen sheets Two pr Course holland sheets Seven pewter dishes Twenty pound old Pewter one Bell Mettle Pot, one Iron Pott Two p^r of Andirons fire shovell & Tongs with Brasses Appraized by M^r Theophilus Frary & Mr Jn^o Wing & since delivered all to m^r Edw^d Willys with fees. to the value of seventy four pounds Twelve shillings Nine pence.

Return Waite Marshall

. . . true Copy . . . Js^a Addington Cler]

MAN cont^a HEWS

Iohn Man plaint. cont^a James Hews Defend^t in an action of Reveiw of a case tried at the County Court in Boston. 29^o July. 1679. wherein s^d Iohn Man was plaint. ag^t s^d Hews Defend^t for the Summe of nine pounds eleven Shillings in money &c^a. . . . The Jury . . . found for the plaint. nine pounds Eleven Shillings money and costs of Court allow^d twenty three Shillings ten pence.

Execution issued 6^o nov^r 1679.

[Review of a case of the previous session. See above, p. 1058.]

THAYER cont^a STODDARD

Nathan¹¹ Thayer Factor of Major Ric^d Williams of Barbados plaint. cont^a Simeon Stoddard Defend^t Thee plaint. withdrew his Action.

ELYOTT cont^a KENT

Henry Elyot plaint. cont^a William Kent Defend^t Thee plaint. withdrew his Action. [610]

WALTER cont^a GIFFARD

Thomas Walter plaint. cont^a John Giffard Defend^t according to Attachm^t The plaint. was nonsuted upon non appearance and costs granted the Defend^t thirty four Shillings two pence.

Execution issued. 10th Nov^r 1679.

BAXTER cont^a EGERTON

Peter Baxter plaint. cont^a Peter Egerton Defend^t according to Attachm^t The plaint. was nonsuted upon non appearance.

SANFORD cont^a HUBBARD

Thomas Sanford plaint. cont^a m^r William Hubbard Defend^t The plaint. withdrew his Action.

CLARKE &c^a cont^a BAKER

Thomas Clarke and Mary Lake Exec^x to the Estate of Thomas Lake late of Boston dece^d late Owners of the Katch called the Begining plaint^s cont^a Thomas Baker Husband of Mary, Relict and Adm^x to the Estate of Iohn Smith late of Boston dece^d or such Estate as did belong unto the s^d Smith Defend^t in an Action of the case for withholding from the plaint^s the full Summe of three hundred pounds due to these plaint^s for the forfeiture of a bond under the hand and Seale of s^d Iohn Smith bearing date the. 18th of Novemb^r 1675. with damages: . . . The Jury . . . found for the plaint^s three hundred pounds breach of bond and costs of Court: At Request of the Defend^t and both partys being heard, The Court chancered this Forfiture to Fifty Seven pounds Five Shillings Seven pence in money & costs of Court (not allowing twenty pounds alledged to bee p^d w^{ch} is left to further prooffe) grant^d twenty nine Shillings six pence.

Execution issued 10th Nov^r 1679.

[Copy of execution and return in S. F. 1813.2.]

OFEILD cont^a VITTROY &c^a

Maudline Ofeild Relict and Exec^x to the Estate of her late Husband Thomas Ofeild dece^d plaint. cont^a the goods money or Estate of Michael Vittroy dece^d in the hands of Eliakim Hutchinson Adm^r of the s^d Estate, Defend^t As also the goods or Estate of John Nurse of

Treece in an action of the case for withholding the Summe of One hundred twenty Four pounds currant money of New-England due to this plaint. by bill under their hands and Seales dat^d 16^o May. 1679. with damages: . . . The Jury . . . found for the plaint. one hundred and twenty pounds in money and costs of Court allow^d twenty four Shillings ten pence.

Execution issued 17^o Nov^r 1679.

TAFFE cont^a COMER

Robert Taffe plaint. cont^a John Comer Defend^t according to Attachm^t The plaint. withdrew his Action.

BRISCO cont^a BRISCO

Joseph Brisco Grand Son of William Brisco dece^d plaint. cont^a the goods and Estate late belonging unto Ezekiel Brisco of Boston dece^d, in the hands of Cap^{tn} William Wright who married wth Rebecca late Relict and Adm^x to the s^d Brisco (and in perticular the part of a dwelling house and Land thereunto belonging scituate in Boston Sold by y^e Worpp¹¹ Tho: Danforth Esq^r unto y^e s^d Ezekiel) Defend^t for the Summe of thirty pounds in currant pay for Silver which is due unto him as the gift of his s^d GrandFather upon the purchase of a house and Land from m^r Robert Gibbs by Deed dated. 9th 7^{br} 1662. which should have been paid by Benj^a Brisco out of that halfe part of the s^d house and Land given unto him and which since hee sold unto Tho: Danforth Esq^r [611] and by him sold unto the s^d Ezekiel, and bound over as Security for paym^t of the s^d Sume; which shall appeare by the respective Deeds for the abovementioned house and Land with all damages. . . . The Iury . . . found for the plaint. thirty pounds in Silver or equivalent to Silver out of the Estate left to him by his GrandFather W^m Brisco according to the Deeds & costs of Court allow^d thirty three Shillings six pence.

Execution issued pr^o Decemb^r 79

BUTLER cont^a THACHER

Nicholas Butler plaint. cont^a Thomas Thacher Defend^t according to Attachm^t The plaint. was nonsuted upon non appearance.

CARTER cont^a PELTON

Thomas Carter plaint. cont^a Samuel Pelton ma^r of the Katch Blessing Defend^t in an action of debt for the value of twenty Seven pounds one Shilling and eight pence in Silver due for worke done on board the s^d Katch for the space of ten months and twenty five dayes being Shipped by s^d Pelton as mate at two pounds and ten Shillings per month in Silver and was Ship't the first of Octob^r 1678. and put out of pay the 25th August. 79 the non payment whereof is greatly to the plaint^s damage with other due damages &c^a. . . . The Iury . . . found for the plaint. twenty Five pounds in money, without costs of Court.

HOLLETT &c^a cont^a PELTON

Roger Hollet John Clapp and William Clapp or their OverSeers Cap^{tn} Roger Clapp, Thomas Carter and Ioseph Homes or either of them plaint^s cont^a Sam^l Pelton Master of the Katch Blessing Defend^t for that the s^d Pelton hath greatly wronged & shamefully abused the s^d Roger Hollet John and William Clapp, who were by him shipp^d at Topsham as passengers hither putting into Plimouth commanded them to go ashore and would not suffer them to have any releife onboard for severall nights and dayes so likewise at Falmouth, and did not give them halfe allowance the Voyage hither, yet hath extorted and received Seven pounds apeice in Silver for their passage, whereby they are greatly damnified. . . . The Iury . . . found for the plaint^s thirty one Shillings apeice in money damage and costs of Court allow^d twenty Seven Shillings ten pence.

GOSS cont^a PELTON

Phillip Goss plaint. cont^a Samuel Pelton ma^r of the Katch Blessing Defend^t in an action of debt due for worke done onboard s^d Katch for about the space of eleven months being Shipped by s^d Pelton here at Boston about the. 24th of. 7^{br} at two pounds one Shilling per month in Silver and so Sayled to Virginia and from thence to England and so hither again and was put out of pay. 25th of August last past and the wages due to the plaint. not being paid is greatly to his damage being twenty two pounds eleven Shillings in Silver this wth due damages: . . . The Jury . . . found for the plaint. Five pounds Sixteen Shillings in money in full ball^a of all Acco^{ts} and costs of Court

allow^d Seventeen Shillings: Upon the Question propounded The Jury declared in Court they gave judgem^t onely according to thirty six Shillings per month. [612]

PAIGE cont^a WOODBRIDGE

Nicholas Paige plaint. cont^a Thomas Woodbridge Defend^t in an action of the case for Security for the Summe of Five hundred twenty nine pounds in money or thereabout including the costs, Judgement was granted by the last County Court held at Boston unto m^r Peter Sergeant and m^r Paul Dudley Attournies of m^r Thomas Deane against the s^d Nicholas Paige upon the chancery of a forfeited obligation wherein the s^d Paige stood jointly & severally bound wth s^d Woodbridge unto the s^d Deane, being the onely proper debt of s^d Woodbridge, which bond beares date y^e 2^d Iune. 1677. whereby the plaint. is damnified the above s^d Summe. . . . The Iury . . . found for the Defend^t costs of Court.

KEEN cont^a MATTHEWS

John Keen plaint. cont^a the goods debts monys or Estate of Iames Matthews Defend^t in an Action of reveiw of a case tried at the last County Court held at Boston. 29^o Iuly ult^o wherein Iohn Dafforne appeared as Attourny to s^d Matthews and recovered Judgem^t ag^t s^d Keen for twenty eight pounds and nine pence money, wth damages; . . . The Iury . . . found for the plaint. twenty Six pounds five Shillings nine pence in money & costs of Court allow^d thirty Seven Shillings two pence.

Execution issued 8^o Nov^r 1679.

[See next case, and Dafforn v. Earle, page 1052, above.]

KEEN cont^a DAFFORNE

Iohn Keen plaint. cont^a Iohn Dafforne Defend^t for withholding the Summe of Fourteen pounds Fifteen Shillings money due to the plaint. being for so much hee did pay unto m^r Simon Lynde by order of s^d Dafforne; w^{ch} was in full of a bill of thirty three pounds Fifteen Shillings nine pence money due from s^d Dafforne to s^d Lynde dat^d 23. Octob^r 1678. as shall appear with damages: . . . The Jury . . . found for the Defend^t costs of Court.

[This case was reviewed at the January session, 1679/80, pp. 1123-4, below.]

KEEN cont^a LEWIS

John Keen plaint. cont^a Walter Lewis Chyrurgion Def^{dt} The plaint. withdrew his Action.

BROWNE cont^a MARTIN

Sam^{ll} Browne Carpenter plaint. cont^a Rich^d Martin Commander of the Ship Blossom Defend^t for withholding the Summe of Eleven pounds six Shillings three pence or thereabout due to this plaint. for Service by him performed on s^d Ship s^d Martin Comm^a in a Voyage from London to Amsterdam and thence to New-Castle and thence to Charlestown in New England as shall appear with damages: . . . The Jury . . . found for the plaint. Four pounds Eighteen Shillings one penny money & costs of Court allow^d twenty Six Shillings. Execution issued 6^o Nov^r 1679.

IAY cont^a HOBART

Joseph Iay plaint. cont^a Ioshua Hobart Marrin^r Defend^t according to Attachm^t The Court dismis^t this Accion the case being depending for tryal before the Hono^{ble} Gov^r And grant The Defend^t costs thirty Shillings and eight pence.

Execution issued. 10th X^{br} 79. [613]

CLARKE cont^a HOLMES

Major Thomas Clarke plaint. cont^a Thomas Holmes Defend^t in an action of debt of two hundred and Forty pounds in money due by bond, wth damages. . . . The Iury . . . found for the plaint. two hundred and Forty pounds money Forfiture of the Bond and costs of Court: Doctor Elisha Cooke appearing as Attourney to the Defend^t appealed from this Judgem^t unto y^e next Court of Assistants and gave bond for prosecution thereof to effect.

[Cooke's Reasons of Appeal (S. F. 1842.7) mark a new style in that class of document:

Thomas Holmes his Reasons of Appeale from y^e Judgm^t of y^e honord County Court held at Boston Nove^{mbr} 4. per Adjournm^t to this honord Court of Assistants.

1. That y^r is but one wittness to ye Bill or Bond sworne & ye Deffendant not in Towne or neare to owne or deny his hand

2. That ye Defendant being absent & his friend also necessari[ly] called away
lost ye oppurtunity of Chancering ye Bond

Elisha Cooke in y^e behalfe
of Thomas Hol[mes]

These Reasons Rec^d feb^r 26^o: 1679.

P^r Js^a Addington Cler

At the Court of Assistants (Records, i. 152) the jury confirmed the former judgment, but "the bench hauing heard the plaintiffs Attorney & the deffendants pleas did chancerje the bond to the principall sum according to bond one hundred and Twenty pounds to be paid yearly" at the rate of 24*l* a year, with six per cent interest, which the court figured would amount to 139*l* 3*s*; together with 45*s* 2*d* costs.

In S. F. 1842.2 is a copy of the execution, with the following note added by Edward Rawson:

This Exec: was only Altered on request & Jmportunity wth advice of y^e Gou^rno^r
Goods & Estate [rest illegible] Tho: Holmes]

PAIGE cont^a WEST

Nicholas Paige Attourny to Benjⁿ Barter plaint. cont^a William West Defend^t for not paying unto the s^d Barter nor his order the Sume of twenty five pounds Starling according to the tenour of a bill of Exchange bearing date the. 16th may. 1678. drawn by him upon m^r Richard Wharton and comp^a merch^{ts} in Boston for the like value received of s^d Barter; which s^d bill is protested for non acceptance and non payment as by the s^d bill and protests shalbee made to appeare wth damages: . . . The Iury . . . found for the plaint. five and twenty pounds money and costs of Court. The Defend^t by his Attourny appealed from this Iudgem^t unto the next Court of Assist^{as} and m^r Rich^d Wharton and m^r Jn^o Fayerweather acknowledged themselves bound . . . in the Summe of Fifty pounds money for the prosecution of said Appeale to effect, and also to Satisfy the Iudgem^t in case of m^r Paige his Recovery.

S. F. 1839.9

Trest¹ May the. 16th 1678.

At sight of this my third bill of Exchange my first and Second being unpaid, pay unto m^r Benjamin Barter or his Order the full Summe of twenty five pounds Sterling for the like value received of him here and place it to the Account of your Loving Freind.

William West

To m^r Rich: Wharton & Company Mercet. in Boston.

¹ Probably the place which appears elsewhere in these records as Treice, i. e., Tres Puntas, in the Bay of Campeachy.

By this publick Instrument of protest bee it knowne and manifest unto all People that about one or two dayes before the Sixth day of October in the year of our Lord One thousand Six hundred Seventy nine Stilo Angliæ Annoque Regni Regis Caroli Secundi nunc Angliæ &c^a Tricessimo primo, At the instance & request of Nicholas Paige of s^d Boston merchant Attourney to s^d Benjamin Barter above-named J Robert Howard dwelling in s^d Boston sole Notary and Tabellion Publick by Authority of the Generall Court of the Massachusetts Colony of New-England admitted and Sworn did repaire to the dwelling house of s^d Richard Wharton but finding him not at home on the s^d Sixth day of October. 1679. hee the s^d Richard Wharton came with the s^d Paige to the Office of me the s^d Notary in Boston afores^d and then and there I the s^d Notary desired him the s^d Richard Wharton to pay the s^d Originall bill of Exchange by me Notary unto him shewn and read a Coppie of which bill is here before writ word for word, But hee the said Richard Wharton answered me the s^d Notary that hee would not pay or did refuse payment because the Summe demanded is already paid and accounted for to the drawer, and again attached in his hands to respond an Action of debt brought against Benjamin Barker, and because the demand of me alone (to which hee Subscribed his name thus) Richard Wharton, which answer from s^d Richard Wharton (as the onely person in s^d bill mentioned directed unto and drawn upon with this addition and Company) when I s^d Notary heard s^d answer as afores^d At the instance and request afores^d I did and do solemnly protest against the s^d William West the drawer and Subscriber of s^d bill of Exchange and all others whome it doth and may concern for all costs damages and interest for non payment as afores^d suffered and to bee suffered This was thus done and Protested in Boston afores^d in the Office of me the s^d Notary the s^d Sixth day of October One thousand Six hundred Seventy nine.

Quod virtute Officij mej Attestor

Robert Howard Not. publ. Massachusitt Colonix per^{dict}.

Postscriptor.

2nd Act in reference to the drawer.

As this aforespecified bill of Exchange drawn by s^d William West upon Richard Wharton and Company and for non payment per s^d Wharton was protested against William West the s^d drawer hee being absent and not in the Town of Boston And now by providence being come to Boston upon the request of s^d Nicholas Paige as Attourney to s^d Benjamin Barter mentioned in s^d bill, J the s^d Notary on the two and twentieth day of October in the year of our Lord One thousand Six hundred Seventy nine went with him the s^d Paige to the house or Lodging place of him the s^d William West with s^d bill of Exchange which I read unto him and acquainted him what was already done in his absence in reference to the aforegoing Protest and shewed him m^r Whartons answer as is beforewritten As also the bill of Exchange itselfe which hee confes't to bee his bill and his name therein written to bee his own Subscription Then I demanded of him the s^d West payment of s^d bill his Answer then was to me the s^d Notary I cannot pay the money mentioned in s^d bill untill I receive it of s^d Wharton & comp^a which answer from himselfe the s^d William West drawer when I s^d Notary heard at the instance & request of s^d Paige as Attourney afores^d I did and do again solemnly protest against the s^d William West drawer then and there being in his own person pu^sent and all others whome it doth and may concern for all costs damages and interest

for nonpayment as afores^d suffered and to bee Suffered This was thus done in reference to the personall presence of s^d William West drawer and Subscriber of s^d bill the s^d two and twentieth day of October 1679.

Quod virtute Officij mei Attestor

Robert Howard Not. publ. Massachusitt Coloniae praedict.

Recorded in the .312: page of the .5th Booke of s^d Notary Records according the custom of the Jurisdiction afores^d

Vera Copia Attest^r Js^a Addington Cler

S. F. 1839.3

William West, Appeallant, Cap^a Nich^o Paige, pretended attourney to M^r Benj^a Barker, Def^t.

Reasons of appeale from y^e Judgm^t of y^e County Court at Boston in Octob^r last.

1. As the appeal^t owned, & his Bills of Exchange proved him Debt^r to Benjamin Barker, so hee should readily have paid what was due, had not Benjamin Barkers estate in y^e appeal^{ts} hands, (w^{ch} was but Twenty five pounds) been attatched, & so by Law Subjected to satisfie a debt of Thirty Six pounds three Shillings due from sd Barker, & by y^e same Juries verdict adjudged to m^r Fairweather & Comp^a. Therefore this being pleaded for the appell^{ts} acquittance, y^e Attatchm^t being before them, & their Verdict not Twenty four Howres old,¹ it was most unreasonable & unjust, by an after verdict to order the appeal^t to pay m^r Paige what by a former Verdict according to law they had adjudged towards payment of Benjamin Barkers debt to M^r Fairweather & Company

2 Jt appeareth not by the papers in this Case that m^r Paige had any power to Sue, and if the Jewry had any reference to anything produced in another case, it had been just also that they should have taken their own Verdict in that Case as evidence in this however the jewry haveing by a Verdict found for m^r Fairweather & Comp^a upon the attachment of Benjamin Barkers Estate in the appeal^{ts} hands, afterwards to cast the appea^l^{ts} for for nonpaym^t of that Estate to m^r Paige is very illegall (our law saying that y^e Estate attatched shall lye to satisfie the Judgment): And y^e appeal^t is by the last erroneous & injurious Verdict (to avoid the Necessity of paying the Summe that was in his hands twice) necessitated to this appeale, hoping that this Honrd Court & Iurie will see reason to reverse y^e former Iudgm^t, & grant y^e Appeal^t Costs of Courts

tho: Norman

Attorney to W^m West

These Reasons Rec^d .26. feb^r 1679.

per J: Addington Cler.

S. F. 1839.4

To: the Honred Court of Asestants Settinge in Boston March the 2^d 1678
Nicholas Paige: Attorney to Benj: Barter his Answers to Tho: Norman Attorney to Will West his Resones of Appeale from ye Judgment of ye Countey Court held in Boston in October Last Releatinge to y^e Judgment granted to ye said Paige as Attorney to Benj: Barter against Willam West Concerninge a bill of Exchange

¹ Cf. Fayerweather, Tyng, & Co. v. Barker, below, p. 1107.

To: The First Reason That ye Appelant owned and his bill of Exchange proued him debter to Benj: Barker and that hee might owne himselfe debter to Benj: Barker J will not dispute but that his bill of Exchange proued him Dr to Benj: Barker J deny — The bill of Exchange proued that hee wase indeb[ted] vnto Benj: Barter; and not to Benj: Barker — J hop the Honred Court and Jury will destinguish be'twen Barker and Barter; and then they will find noe Vallidity in this Reson; The pretence why ye bill of Ex[c^o]: wch wase drawne by West: payable to Barter: or: orde^r Should not be paid to.; or: recovred By Barters order was be Cause the Estat of Barker; wch beinge another man: bee Cause itt is a nother name, wase a Rested in ye hands of West, and w^t Reson Cann thare bee in this Reson of Appeale, West might owe Barker fiue hundred poundes and Barker might owe Farreweather and Comp^a money; and yet Barters Estate noe way Concerned, and if the same parson was ment and Jntended yet ye parson Cann not be Vnderstood; and the parson and Case must bee Vnderstood or thare is noe ground of Action theare for here is no ground for ye Action of Appele.; Willm West ought to pay his bill drawne for ye Vse of Barter all though hee owed Barker neuer soe much, and itt wase attached in his hands:

To: his second Reason That itt ded not appeare Paige Wase Atturney: to Barker: their is noe need of that for J Claime nothings Jn Right of Barker: but Jn Right of Barter; and that ye Leater of Atturney appeared in Court and theare Js extant is true pa[^r] wch J wase alowed to sue and did Recouer of West in the Name of Barter and why itt is not brought to this Court J know not; but suppose that Barters Estat had benn Sued in the handes of West: yet West might owe Barter other wayes then by this bill: of Exchange and soe ye bill The payment theire of not to bee hindred: But if itt bee taken for granted that hee owed him nothings otherwayes yet J doe Conceue the Attachinge or Recoueringe of Judgment: against Ba[torn] his Estat in y^e handes of West in Genrall: will not touch the Estate of Barter in the hands of West per uertue of such a spetialty as a Bill of Exchange Thus not doubtinge but the Honeared Court and the Gentellm of y^e Jurey will Com to a right understandinge of y^e Cause and see Just Reson to Confeare the former Vardet and soe J am

yo^{rs} to Command

Nicho: Paige

(Records of Court of Assistants, i. 157)

w^m west plt agst Nicholas Paige Attorney to Benjamin Barter deffend^t in an Action of Appeale from the Judgment of the County Court in Novembe^r last at Boston . . . the Jury brought in their virdict i e If stopping of mony due by bill of exchainge by Attaching of it in the hands of him by whom the bill of exchainge is draune be a sufficient barr for the non payment of the money sued for then wee find for the plaintiff reuersion of the former Judgment & Costs of Courts if no^t wee find for the defendant Confirmation of the forme^r Judgement & Costs of Courts. The Bench resolves this Question on the negative & so determines this Case for the defendant Confirmation of the former Judgment & Costs of Courts three pounds eight shillings]

LEITCHFELD cont^a BADCOCK

Thomas Leitchfeld plaint. cont^a Ionathan Badcock Defend^t according to Attachm^t The plaint. withdrew his Accion.

LAMB cont^a WILLIAMS

Joshua Lamb for himselfe and as Attourny to Benjⁿ Walker &c^a plaint. cont^a John Williams Defend^t according to Attachm^t The plaint. withdrew his Action.

THACHER cont^a THACHER

Margaret Thacher Relict & Adm^x of the Estate of the Rev^d m^r Tho: Thacher dece^d plaint. cont^a Tho: Thacher Ralph Thacher & Peter Thacher Defend^{ts} The plaint. withdrew her Accion.

FISKE &c^a cont^a RAWSON

Thomas Fiske and Thomas Patch Guardians to William Rogers son of William Rogers formerly of Boston plaint^s cont^a William Rawson Adm^r to the Estate of William Snelling (in behalfe of Margaret his daughter and Ann Davenport his Sister) Defend^t in an accion of the case for withholding one hundred thirty Six pound nineteen Shillings six pence being his part of his s^d Father William Rogers his Estate in the hands of William Snelling according to Inventory and the Courts Setlem^t of s^d Estate, with damages: . . . The Iury . . . found for the plaint^s Fifty one pounds ten Shillings in money and Eighty five pounds nine Shillings six pence in such Specie as the Estate was or is in & costs of Court. Forty five Shillings ten pence Execution issued 2. Decemb^r 1679.

[See Settlement of Snelling's estate, below, p. 1103.]

SAFFIN cont^a ALBOROUGH

John Saffin plaint. cont^a Cap^{tn} John Alborough Defend^t according to Attachm^t The plaint. withdrew his Action. [614]

HARRIS cont^a YEALES

Richard Harris plaint. cont^a Timothy Yeales Defend^t according to Attachm^t The plaint. withdrew his Action.

HARRIS cont^a YEALES

Richard Harris plaint. cont^a Timothy Yeales Defend^t according to Attachm^t The plaint. withdrew his Action.

PRATT cont^a WEEDEN

Aron Pratt plaint. cont^a Joseph Weeden Defend^t in an action of the case for detaining and not delivering an Indenture of Apprentiship dat^d sometime in the year. 1674. the same being demanded of the s^d Weeden by Pratt; with damages: . . . The Jury . . . found for the plaint. the delivery up of his Indenture and Freedom from Weeden or twenty pounds money & costs of Court allow^d twenty Shillings six pence.

Execution issued 21^o nov^r 1679.

SMITH cont^a EGERTON

Katharin Smith plaint. cont^a Peter Egerton Defend^t according to Attachm^t The plaint. withdrew her Action.

KENT &c^a cont^a KNIGHT

William Kent and John Indicott Adm^{rs} to the Estate of Samuel Hawford plaint^s cont^a Richard Knigght Defend^t The plaint^s withdrew their Action.

SHEAFE cont^a SALTER

Sampson Sheafe Merch^t plaint. cont^a Eneas Salter of Boston Mason Defend^t in an action of the case for refuseing to deliver up unto the s^d Sampson Sheafe and give him possession of a certain parcel of Land and houseing thereupon scituate in Boston aboves^d in the pu^rsent tenure of s^d Salter which do of right belong unto s^d Sheafe as shall appear by a conditionall Deed of Sale or mortgage under the hands and Seales of s^d Eneas Salter and Ione his wife bearing date. 17th of Iune. 1677. long since forfeited and by them so acknowledged & surrendred up unto the s^d Sheafe, and afterwards leased of him for the term of Six months after the rate of twelve pounds money per annu^m but doth neither pay the s^d Rent nor will Surrend^r the pu^rmisses whereby the plaint. is damnified more then One hundred and Ninety pounds in money with other due damages: . . . The Iury . . . found for the plaint. possession of the house and ground Sued for, and Sixteen pounds twelve Shillings money for Rent, and costs of Court allow^d twenty three Shillings six pence.

Execution issued 11th Nov^r 1679.

WATTS cont^a GOVER

In^o Watts plaint. cont^a William Gover Defend^t in an action of debt of ten pounds Fourteen Shillings and nine pence due to the plaint. according to bill. dat^d 7th Novemb^r 66. wth interest and damages: . . . The Jury . . . found for the Defend^t costs of Court allow^d twenty Shillings.

BEAMENT cont^a WELDEN

Gamaliel Beament of Dorchester plaint. cont^a Daniel Welden Defend^t in an action of debt for Seven pound Fourteen Shillings and two pence due by bill dat^d 3^d Iune last, to bee p^d in currant money wth damages &c^a [615]. . . . The Iury . . . found for the plaint. Seven pounds Fourteen Shillings two pence in currant pay and costs of Court allow^d Forty one Shillings ten pence.

Execution issued 8^o nov^r 1679.

DANSON cont^a ELIOTT

George Danson or his lawfull Attourney plaint. cont^a Henry Eliot Defend^t in an action of the case for entertaining fostering and detain- ing an Indian Squaw called Sarah who is Servant to s^d Danson, from the Service of her s^d Master; which is contrary to Law and greatly to the damage of the plaint. as shalbee made appear with all other due damages: . . . The Iury . . . found for the plaint. that s^d Eliot return the Indian Squaw in controversy (mortality excepted) and deliver her to s^d Danson within twenty dayes next comming and also pay s^d Danson Forty three Shillings money damage and costs of Court, s^d Danson defalking Five and twenty Shillings money to s^d Eliot. Or that s^d Eliot pay Fifteen pounds money to s^d Danson and costs of Court. The Defend^t appealed from this Iudgem^t unto the next Court of Assistants and put in Security for prosecution thereof to effect.

[Among the numerous depositions and other documents on this case, in S. F. 1919.1-19, the following make a fairly connected story:

S. F. 1919.16

Boston January, the: 11th 1678.

J George Danson do impower Henry Ellyat of or about Stoningtown to take up my Indian Squaw, Sarah Dijuponyou who hath been wanting about 10. weekes or thereabouts this being the second time that the s^d Indian Squaw hath

run away from her s^d m^r George Danson — and this my note shalbee yo^r sufficient warrant As witness my hand the day and year first abovewritten, her wearing Clothes was one red petticoate with Sleeves and another striped Coate woollen and cotten and a striped gown a pair of blew Stockins and one pair of black Shoes and two dowlis Shifts and a blanket that Shee stole of the bed when Shee went away.

George Danson

Shee is the same Squaw that both I and my wife discharged Iohn Wardner of enterteing because hee knew Shee was a runaway.

W^m Gilbert who wrote y^e order from Danson to Elyot denied the above to bee his hand in Court. Nov^r 6. 1679.

attests J. Addington Cler

S. F. 1919.21

The Deposition of Adam Dunkin aged. 20: yeares or thereabout and Iudah Nubey aged .17. yeares or thereabout testifieth and Saith.

That about Four or five months' since came one Elliot of Stoningtown to our master George Dansons house, and our Master told him hee heard his Squaw was at Warwick and asked him if hee would undertake to fetch her home, hee said hee would So our master agreed with him for twenty five Shillings, our mistress being by told s^d Elliot Shee feared hee would when hee had taken her keepe her at his own worke it being then about planting time, hee told our Mistriss hee would not for hee did not plant, our mistriss told him hee must not keepe her above a weeke after hee had taken her, but hee would not undertake to bring her down under a Fortnight after hee had taken her to which at last they agreed; Jn a little time after said Elliot came again and said hee had found the Squaw but hee could not bring her down for so little as twenty five Shillings our mistress asked him what hee would have more, to which wee remember not well his answer, but our mistriss gave him three Shillings in his hand and told him hee should have that more with which hee seemed contented and promised to bring her: Further s^d Elliot told our master that the Squaw was unwilling to go with him. Saying hee would steale her from her master Danson and said Shee was going home to him again and Eliot said hee dragged her after his horse to make her go and was forced to use her so that Shee kep't her bed some daies till at last hee beat her with a whalebone till Shee bled before hee could make her worke for him

Sworn in Court .6^o Nov^r 1679. by both witnesses

Attests J: Addington Cler.

S. F. 1919.14

Boston .the. 28th August .1679.

I underwritten do hereby promiss and oblige my Selve to deliver to George Danson or his Order an Indian Squaw named Sarah. belonging to the s^d Geo: Danson and now in my possession at demand. Witness my hand.

Henry O Elliott
his marke

Witness.
Nath: Colson
Daniel Mascroft.

Owned in Court per Henry Elliot. Novemb^r 6. 1679. attest^d per Js^a Addington Cler

S. F. 1919.17

Stonington. September the first. 1679 @

Hono^d and Loving Freind.

After kinde Salutations to yo^r Selfe and your good wife, I thought good to write unto You that you might understand the true reason why this man which you either sent or at least Saith yo^w sent him which if you did I admire you should send a man so far on so slight an errand, not so much as to impower him to give me a discharge nor to write on the backside of that paper w^{ch} hee brought that you did desire me to deliver the Squaw to the bearer thereof, which is the true reason of my not delivering of her, for at the first comming of the man I told him, not making any question of the truth of what hee said, that according to my word and ingagement there was the Squaw as Shee was in my house standing by this man my wife onely being present, but soon after Shee went out and I said to this man you had best go out after her for fear Shee should give you the Slip, and hee went out and talked with her awhile and comming again Shee tooke the oppertunity and went away and the man seeing her gone said nothing but went away also, and I tooke my horse and followed him and asked him where his order was and desired to see it and hee told me I should not, I told him I had delivered her to him, hee denied it and I could not prove it, which put me to a Stand what to do fearing that the Squaw was gone, but when I came home Shee was come and I sent him word and hee came and I profered him once more to deliver her if hee would shew me any order from yo^r Selfe or give me a discharge, but hee had no Order and he would give me no discharge, therefore I thought if I should delivered this Squaw and hee should have lost her I might have been called to an Account and been made to have paid for her, having nothing to Secure my Selfe.

So in haste I Rest yo^r Loving Freind

Henry Elliott

Own^d in Court .6^o Nov^r 1679. per Henry Eliott Attests Js^a Addington Cler.
Vera Copia Attest^r Js^a Addington Cler

S. F. 1919.18

John Marsh aged about .32. yeares testifieth & Saith that in the latter end of august or in the begining of September instant J was hired by George Danson to go with Henry Eliot to fetch an Jndian Squaw that then was in the possession of s^d Eliot (called Sarah) and J then tooke my journey with s^d Eliot, who in the way discourseing together told me hee knew my buisness and asked me if J had y^e note about me that hee gave to George Danson about y^e Squaw, and J told him yes, and J shewed him the note at his house and his wife was there & hee owned his hand or marke & the witnesses, but hee did not deliver me the Squaw, but left her to her liberty telling her if Shee would go to Boston Shee might, but if Shee would not Shee might Stay for hee would not force her; but soon afte[*tern*] refused to deliver her upon that note Signed with his owne marke, So J returned without her, & had Forty Shillings mony for that Journey which s^d Eliot knew of.

Taken upon Oath the 10th of. 7^{mo} 1679.Before me Anthony Stoddard Commiss^r

S. F. 1919.20

The testimony of Tho: Huit of Stoningtoun aged twenty yeares or thereabout do testifie and Say that upon a time hee going to Steven Richardsons, did overtake a man w^{ch} did say that hee had an order of m^r Donson to receive an Indian Squaw of Henery Eliot, and the man said hee had been at Henry Eliots to demand the Squaw, and hee said that Henry Eliot did say unto him here is the Squaw take her, and farther Saith that the man said that while hee was talking with some body the Squaw ran away and farther saith not.

The testimony of Thomas Bell of Stoningtoun aged thirty three yeares or thereabout do testify and Say that hee was in Henry Eliotts house and did heare say that m^r Danson had sent a man for the Squaw that is said to bee m^r Danson[s] and going out of the house did see the man (which did pretend hee had an order to receive the Squaw) and the Squaw alone together behinde the house, and soon after the man came into the house and went out again and went in again and said that the Squaw was ran away & farther Saith not.

Thomas Bell and Thomas Hewit appeared & made Oath to the abovewritten.

Before me Samuel Mason Com^{nr}

Stoningtoun April y^e 27th 1680.

Copia Vera attest^r Js^a Addington Cler.

But Bell had previously given testimony quite different in selection of incidents and in implication:

S. F. 1919.28

The Deposition of Thomas Bell aged thirty three yeares or thereabout, who Saith that sometime this last Summer being at the house of Henry Eliot there came thither a man who pretended himselfe to bee sent by George Danson for an Indian woman; but I did not see any order hee had for her; but I heard the s^d man Say that hee had no order under Dansons hand for the the woman: And further I do testify upon my certain knowledge that I heard Henry Ellitt tender the afores^d man to deliver the Indian woman unto him provided hee would give him Security under his hand to secure the s^d Eliot from damage in case the Indian Squaw should make her escape from him, the which the s^d man utterly refused to do, the which was the last of the discourse which I heard between Henry Ellit and the man before they parted and further Saith not.

This Testimony was taken before me. Octob^r 1: 1679. Jn Stonington.

Samuel Mason Comm^r

Elliot's Reasons of Appeal (S. F. 1919.10):

My Reasons are Viz^t —

1: Because J did not entertaine the Squaw Contrary to Law. J had Georg Dansons ord^r & approbation for y^e entertaineing of hir as by the testimony of Adam Dunkin and Juda Nubys which proues J was to bring hir downe Now how Could J bring hir downe exopt J first Receiued & entertained her Soe y^t my entertaineing hir was per his Consent & theirfore not Contrary to law, The first tearme in the Attachm^t J hope is Answered & proued Voyde

2 Reason is because the Second tearme in the Attachment is Not true J did not Forster the Said Squaw Their is not any one of the Testimonys Say J did or any thing to that purpose

3 J did not deteine the Squaw Contrary to Law — Neither did J deteine hir at all from him or his order — J might Legally keepe hir Nay J humbly Conceiue must keepe hir vntill Georg Danson or his ord^r demanda hir, J am very Confident that Jt will apeare to this honoured Court & Jury that Neither Georg or his order euer demanded the Squaw — Jf Soe then J was not in any fault in keeping hir — till Demanded, Jf it bee pleaded Shee was demanded by John Marsh at y^e Apellants House J Acknowledg it, but deny that hee was Dansons ord^r Jts true hee brought my Noate with him but noe ord^r either Jndorsed Vpon the noate or otherwise Soe that Jf J had deliue^d to Jn^o Marsh J had neither deliuered hir to Georg Danson nor his ord^r and soe had broken my promise & obligation in my Noate, yet as apeares per Testimonies J did not detain the Squaw but left hir to hir liberty to to goe or Stay And moreouer ofered Marsh to deliuer hir Jf hee would giue mee Security to defend mee from Danson in Case the Indian Squaw should Make hir Escape & what more J Should doe J know not

Jf it bee pleaded The deliuey vp of my noate to mee would haue Sufficiently discharged mee J Answer J humbly Conceiue Not Jf J owe 100£ per A Bill to A: B: or his Assignes. A. B. Drops this Bill & C: D takes it vp Comes to mee & demands this 100£ Jf J pay it am J discharged by haueing the Bill vp — And may not A: B: Recou^r of mee because J haue not paid either to him or his Assignes — Jf hee Canot then whosoeuer finds A Bill of Another mans is his Assigne theirby & the money due to him nearly by finding the Bill & what euill Consequence this would bee of J Leaue to this honoured Court & Jury to Consid^r J hope it apeares that John Marsh his demand was neither the demand of Georg Danson nor his order Theirfore J haue not detained hir Jlegally as is y^e matter of Complaint in the Attachment —

But Jf it bee further alledged this Squaw was demanded by Georg Danson per the Attachment being Serued J Answer The Attachment was Serued in Boston, which was not the place of deliuey, The demand must bee made at the place of deliuey or else J humbly Conceiue it is noe demand — Now Stonington was the place of Deliuery as apeares. . . .

S. F. 1919.11

George Danson his Answers to Henry Eliot his Reasons of Appeale from the judgment of the County Court held in Boston by Adjurnm^t from y^e 20th of Octob^r to the forth of Novemb^r 1679 Giuen in by his Attorneys (viz) M^r Anthony Checkley & M^r Nathaniell Oliver —

My Answers to the Plaintifes interrogations which are two in [the] prologue (or rather preamble) are as followeth (viz) —

1 in modest & humble termes I denye their Critticall & Sophisticall assertion, for although Adam Dunkin & Judah Nubye, their testimonys doe employe an order for Eliots entertaineing the Squaw sarah; yet it alsoe proues a limeted time; which was one weeke at first; & vpon y^e grant of a fortnight, there was an absolute agreement, the non performance of which is a breach of bargaine or Covenant: there fore elegall on S^d Elliots part.

2 it is not reason to Say that hee did not foster the person of the Squaw that hee hath maintained & nurished by the Space of about fower monthes, which M^r Elliot: did, and is proved by dunkin & Nueby their testimoneys with his owne promise or obliga[ti]on] vnder his Marke dated Boston y^e: 28th August: 1679 but hee hath now detained her about eleuen monthes

3 it is inconsistent as well as incongruous with M^r Elliots whole case as himselfe by his Attorneys haue Stated the Matter in this Appeal to Say that hee did not detain the Squaw contrary to Law: for these reasons —

1: hee tooke her vp as Shee was M^r Dansons Servant

2: hee brooke his agrement in keeping her aboue a fortnight

3: hee forced her against her owne will for shee said shee was goinge home to her master Danson againe

4: hee beate her extreemely to make her worke for him Selfe¹

5 hee ownes it in his owne fashionable Letter which makes his detain[ing] of her elegall — for hee breakes all manner of order in it

Againe hee continues his dicourse vpon the frivolous plea of a lost: Bill my answer is that the Finder of it; had it in his power: to cleare the drawer of it (Soe that y^e Law could not helpe the true Creditor to y^e value of it) if the finder had but burnt the bill

Nextly here comes in 4 fantasies which call for 4 Answers that are breefe to avoyde prolixity; not dobtng but the respectife Jury will compare them with the Conceited assartions

1: Danson hyred Jn^o Marsh to inspect and assist Elliot in his action[s] about the returneing of the Squaw, if possible to make Elliot hone[st] and had also deliuered to Elliot an Jron Jigin made almoste like (pothookes) with a Rivett soe that it would come about her Necke, and a padlocke to keep it fast there but Elliot made noe vse of it: as is known to vs though hee might esily haue comanded her if that had ben put on

2: the three shilings aditional money payed by Dansons wife make plaine the confirmation of the bargain or that hee was to returne the Squall or bring downe Squaw to Boston, test Dunkin & Nubye

3: the former judgment in my conceite was 43^s damage, because Eliot made Dason soe great a Looser by S^d Elliots deceitfull actings as is found by John Marsh, M^r Richenson & the vndenyed Pothooks &c^{tr}

4 because the place of deliury was Boston there fore 'tis beleved and knowne the jury gaue wisely & advisedly 20: dayes for the performa[nce] of it, for there was noe new Agrement, but by prudence a Note obtain[ed] from Elliot to bee helpfull to strengthen what was alredy agreed on —

his 1: 2: 3: totaligies are answered before

4^{ly} I admire this pece of aprehensiue & conceited fantasie aboue all the rest of the Appealants Witts that hee or they should now stammer and hackle about 15^l or the or the returne of the Squaw when they might hau choose whether they liked best, and to this daye the now defendant desires his Squaw to bee returned vndamnified and his damages responded in reason rather then 30^l the best money in New England, and it has ben said that Henry Elliot did Say if the jury had not aded 5^l to y^e 10^l first agreed on hee would haue payed the money & Danson should neuer haue the Squaw — soe truste that this honoured Court & jury will See the extreme abuse & wronge in this Matter & giue just releife to him that prayes for your happines

the Marke of
George G D Danson

Boston y^e 1st March 1678

¹ Marginal note opposite these four reasons: "Testes Adam Dunkin: and Judah Nuby."

S. F. 1919.13

M^r George Dansons damages to bee repaired by Henry Eliott.

	£	s	d
1. The Squaw Sarah to bee returned and delu rd to her master with all convenient Speed or at least in some limited time or	30:00:00		
2. That Eliot respond to Danson the hire of John Marsh who went to assist Eliot to bring down the Squaw	02:00:00		
3. To return or pay for the lock & bolt	00:05:00		
4. To respond the costs of the first Court w th the damages allowed . .	03:09:00		
5. That hee respond the charge at the Court of Assistants for s ^d Eliot did there unjustly trouble s ^d Danson	01:00:00		
6. That s ^d Eliot pay for the time hee hath detained the Squaw in his Service about fourteen months	14:00:00		

Vera Copia attest^r Js^a Addington Cler

The Court of Assistants (Records, i. 156) in 1679 reversed the former judgment and found for Elliot with 46s 2d costs. "Henry Elljot in open Court engaged that he would deliuer the Indian to George Danson or his order dead or aliuie." Nevertheless the case was reviewed at the April session, 1680, of the County Court, decided in the same way (copy of judgment in S. F. 1919.7), appealed by Elliot (Reasons in S. F. 1919.9), and again reversed by the Court of Assistants (Records, i. 167.)

BUCKLEY cont^a BUTLER

Rich^d Buckley plaint. cont^a Iohn Butler Defend^t The plaint. withdrew his Action: The Defend^t confessing judgem^t

LEVERETT cont^a KNIGHT

Hudson Leverett plaint. cont^a Bathsheba Knight Adm^x unto the Estate of her dece^d Husband Iohn Knight Defend^t in an accion of the case for refusing and neglecting to pay the Summe of Fifty Six pounds Eighteen Shillings and one penny in money or thereabouts as shalbee made to appeare or what else shalbee made to appeare due upon the ballance of Accompt with due interest and damages: . . . The Iury . . . found for the Defend^t costs of Court

CLOWTER cont^a PECK

Thomas Clowter or his lawfull Attourny plaint. cont^a Iohn Peck Defend^t for withholding the Summe of Four pounds money or thereabouts due to this plaint. for about four months wages for an Indians Service onboard s^d Pecks Vessell in his last voyage to Newfoundland

as shall appear by writing under the hand of s^d Peck with damages: . . . The Jury . . . found for the plaintiff. Forty Shillings in money damage for wages and costs of Court.

MILLS cont^a SISE

John Mills Administrato^r to the Estate of Iohn Fuller dece^d plaintiff. cont^a Christopher Sise Defend^t in an action of debt of thirty two pounds money due to the s^d Fuller by bill under the hand of s^d Sise dated. 4th novemb^r 1678. with interest and damages: . . . The Iury . . . found for the plaintiff. thirty two pounds Fourteen Shillings six pence in money and costs of Court. [616]

WHETCOMBE cont^a TOWNSEND

James Whetcombe Merch^t plaintiff. cont^a Peter Townsend Defend^t in an action of the case for the Forfiture of his bond of two hundred pounds money under his hand and Seale bearing date. 21^o December. 1677. by his non performance of Covenants unto which the s^d bond doth relate as thereby shall appeare with due damages: . . . The Iury . . . found for the plaintiff. Forfiture of the bond two hundred pounds in money and costs of Court.

WHETCOMBE cont^a ELLIS &c^a

James Whetcombe plaintiff. cont^a Henry Ellis and Roger Rose of Boston Marriners or either of them Defend^{ts} in an action of the case for withholding from this plaintiff. the Summe of Forty Six pounds being the penalty forfeited by the s^d Ellis and Rose by not paying the Summe of twenty three pounds money before or upon the first day of October last as shall appear by bill under the hands and Seales of s^d Ellis and Rose, with due damages. . . . The Iury . . . found for the plaintiff. thirteen pounds Fifteen Shillings money and costs of Court one pound three Shillings

SHRIMPTON cont^a HUDSON

Samuel Shrimpton plaintiff. cont^a William Hudson Tavernkeeper Defend^t in an action of debt for not paying the Summe of one hundred & five pounds or thereabout in money due by booke wth due damages:

. . . The Iury . . . found for the plaint. one hundred and five pounds Five Shillings four pence in money & costs of Court being twenty nine Shillings eight pence.

PECK cont^a CLOWTER

Iohn Peck cont^a Thomas Clowter Defend^t in an Accion of the case for withholding the Summe of Eight pounds twelve Shillings or thereabout money due to this plaint. as shall appeare by evidence with damages: . . . The Iury . . . found for the Defend^t costs of Court

HILL cont^a OBBINSON

Thomas Hill plaint. cont^a William Obbinson Defend^t in an action of the case for refusing to pay him the s^d Hill the Summe of ten pounds in money due for one halfe yeares Rent due by lease. the. 29th of Septemb^r last past as will appeare by Lease under the hand & Seale of s^d W^m Obbinson, being greatly to the damage of the plaint. and all other due damages. . . . The Iury . . . found for the Defend^t costs of Court: The plaint. appealed from this Iudgem^t unto the next Court of Assistants & put in Security to prosecute the same to Effect.

[William Obison, in 1676, took a seven-year lease of Thomas Hill's tanyard, orchard, bark-grinding mill, and half his house, in the western end of Boston (lease in S. F. 1908.8) at a yearly rent of 20*l*, and established a tanning business there. It might be conjectured from our previous acquaintance with the Obisons, especially the goodwife (see case of Gilbert v. Obison, session of 31 October, 1676, above, p. 738), that the Hills would find them unpleasant neighbors; and such turned out to be the case. Hill appears to be identical with the man of that name who was involved in the previous case in the rôle of town scavenger. He refused to keep the bark mill and Obison's end of the house in proper repair, according to several depositions (S. F. 1908.13, 20, 23), so that the bark mill, an essential part of the tanning plant, would not work. Hence Obison stopped paying the rent, and his goodwife performed her usual part of placing accent and emphasis on her mate's slower movements:

S. F. 1908.17

The Deposition of Francis Ball aged about Fifty five yeares testifieth that this deponant being at Thomas Hills house to fetch away hides to tan for s^d Hill, Will^m Obbinsons wife came out of the house and Set a Lock upon the gate and

hindred us from loading a Cart that then was there for that purpose, Thomas Hill asked why Shee did so, Shee made answer that Tho: Hill had no way there and should not go that way whereupon Thomas Hill tooke off the s^d Lock & gave it her and carried away the hides that way, whereupon the s^d woman tooke a naked knife & ran at s^d Hill severall times indeavouring to stab s^d Hill saying Shee would bee the death of s^d Hill and after that Shee tooke up Stones and threw at s^d Hill and hit s^d Hill in his Neck almost hit him down and then Shee ran away and farther Saith not

Sworn in Court. 27^o april : 1680. attests J: Addington Cler.

That this picturesque manner of paying the rent was not an article in the indictment, suggests that the Hills gave as good as they got. Hill appealed to the Court of Assistants (S. F. 1908.3), and Obison answered (S. F. 1908.5) in a manner of which this preamble is sufficient indication:

William Obbinsons answer to Thomas Hills reasons of Appeal is as followeth

Jmp^r And first the defendant saith that he finds so little of Law or reason in the paper he calls the reasons of his appeal such a long preface to it and so much tatollege: impertinences and dirt cast upon the former Jurie that he cares not to meddle with it but chuseth rather with the favour of this Honoured Court and Gentile men of the Jurie to say something as near as he can to the merrit of the case in wordes of truth and with what brevity he may

He further accused Hill of hindering his access to the common well, and letting his horse into the street, from which "it did evidently appear that his design was to destroy the defendant and ruinate him to all intents and purposes."

What Obison called the "Gentile men of the Jurie" rendered a confused verdict (Records of Court of Assistants, i. 151):

The Jury brought in their virdict they found a speciall virdict: If the lessor not performing his part of the Couenant doth disobleige the lessee from his part of the Couenant then wee finde for the deffendant Confirmation of the forme^r Judgement of the forme^r Court & Costs of Courts If not wee finde for the plaintiffe tenn pounds in money & Costs of Courts the Court Resolves this question on the negative that the lesso^rs non-performance of the Couenant doth not disobleige the lesse & determins for the . . . plaintiff that the deffendant pay the plaintiff tenn pounds money & Costs of Courts three pounds fower shillings & eight pence.

After which the parties started all over again, at the April session, 1680, for which see S. F. 1908.4-21, and Records of Court of Assistants, i. 161, 180. One document from the review (S. F. 1908.23) may be quoted for a curious word. Peter Aspinwall testified as to

the trouble and charge which s^d Obbinson was at in removing fourteen tan pits, his Stocke of Barke, and about twenty five dicker of Leather with the loss of all his Liquor or barke ouse, and do apprehend according to the best of our Judgem^{ts} that the loss hee Sustained thereby could be no less then twenty pounds in money."]

KEEN cont^a JOHNSON

John Keen Assignee to John Manset plaint. cont^a Sam^{ll} Johnson Defend^t in an action of the case for withholding the Summe of Fourteen pounds fourteen Shillings Sterling money of New-England due by bill dated. 29. aug^o 77. wth damages. . . . The Iury . . . found for the plaint. Sixteen pounds Eight Shillings in money and costs of Court allow^d twenty three Shillings

Execution issued 10: nov^r 79. [617]

WILLIAMS cont^a GREENE

John Williams plaint. cont^a John Greene Defend^t The plaint. withdrew his Action.

HOLTON to BYFEILD

John Holton of Northampton appearing in Court confessed Iudgement ag^t his Estate and person for twenty Eight pounds five Shillings and six pence to bee paid in money unto Nathanael Byfeild Executo^r of the last will of Cap^t Thomas Clarke dece^d

THAYER his Estate ordered

For a division of the Estate of Sydrach Thayer late of Brantry dece^d intestate amounting by Inventory to three hundred pounds cleer Estate: It's Ordered that the eldest Son left by s^d Thayer have Eighty pounds paid him as his double portion of his s^d Fathers Estate when hee shall attain the age of twenty one yeares And the other Four Children left by s^d Thayer to have Forty pounds apeice paid unto them when they respectively come of age as their portions of their s^d Fathers Estate, And ordered that Deliverance his Relict widdow enjoy the whole Remaining Estate to the use of her and her heires forever Shce bringing up the Children at the charge of s^d Estate untill they come of age or bee otherwise disposed of

BURNELL ordered a Dowry

It's ordered that Samuel Burnell of Boston pay unto his Mother Sarah Burnell Widdow Four pounds Sixteen Shillings money per Annu^m during her life, in leiu of her thirds of Land sold by him at Pulling point for Ninescore pounds w^{ch} was the Estate of his Father

W^m Burnell to bee paid unto her by equall portions Quarterly at the begining of each quarter, hee to give Security forthwth so to do: Afterward Ordered that the Marshall levy the first quarter and put her into possession of the Roome Shee formerly lived in, in her Son's house unless hee provide other to her content.

Execution issued 27^o nov^r 79.

Freemen Sworn

Andrew Lane and Iohn Tucker of Hingham and Simon Peck of Milton tooke the Oath of Freedom of this Colony.

BOLTER his Estate Setled

For a Setlement of the Estate of Ric^d Bolter late of Weymouth dece^d intestate. It's Ordered (that after his just debts and Funerall expences are duely paid and Satisfied) his onely Son Thomas Bolter have and enjoy the whole remainder of the Estate to the use of him his heires and Assignes forever.

BUTLER to BUCKLEY

Iohn Butler appearing before the Hon^{ble} Simon Bradstreet Esq^r Gov^r and Edw^d Tyng Esq^r Assist 6th Nov^r 1679. confes't judgem^t against his Estate and person for the Summe of Sixty Four pounds eleven Shillings in money to bee paid unto Rich^d Buckley merch^t in full of a bill on file wth charges.

Attests. Is^a Addington Cler

Execution issued: 11th Nov^r 1679.

RICE Fin^d 40^s

Mary Rice of Dedham convict^d by her own confession in Court of committing Fornication and having a bastard Childe Shee chargeing Samuel Clarke of Muddy River to bee the Father of it and made Oath thereof in Court; Sentenced to bee whip't with Fifteen Stripes or to pay Fifty Shillings in money fine to the County and fees of Court standing committ^d &c^a Afterwards upon petition The Court remitt^d ten Shillings of the Fine. [618]

CLARKE Sent^a

Samuel Clarke of Muddy River being charged by Mary Rice to bee the Father of a Bastard Childe late born of her body of which Shee made Oath in Court. The Court declare him to bee the reputed Father of s^d Child according to Law, And Order him to pay two Shillings six pence in money per weeke to s^d Rice towards the maintenance of s^d Child from the time of its birth untill the Court take further order standing committed untill hee give Security for performance of this order and pay fees of Court: Accordingly s^d Sam¹¹ Clarke principall in twenty pounds, and Sam¹¹ Garey and Iames Clarke his Sureties in twenty pounds acknowledged themselves bound in Court to the Treasuro^r of the County of Suffolke in the Summes afores^d for s^d Clarkes performance of this order.

ANDREWS his Estate Setled

For Setlement of the Estate left by Iohn Andrews late of Boston Cooper dece^d intestate amounting by Inventory to Seventy three pounds Five Shillings cleer Estate: Jt's Ordered that it bee thus divided and proportioned between Hanna his Relict widdow & his eight Children, Namely Five pounds to his eldest Son and Fifty Shillings apeice to the other Seven Children to bee paid unto them as they attain their respective ages of twenty one yeares, And the whole remaining Estate is Setled upon Hannah his Relict and her heires forever.

DAVIS Sent^a

Thomas Davis of Medfeild convicted in Court by his own confession of Stealing a pair of blew drawers &c^a from Hannah Manning widdow, and having formerly been convicted of the like and other Crimes; is Sentenc^d to bee whip't with Fifteen Stripes and to pay unto the widdow Manning Fifteen Shillings money being treble damages according to Law and fees of Court and prison standing committ^d &c^a And order that forthwth upon his discharge hee depart the Town of Boston and return not again under the penalty of being forthwth apprehended & whip't

[Thomas Davis and John Egerton are described as "incorrigible theeves" in Records of the Court of Assistants, i. 189. For their

“threatning if loose to burne the Towne” that Court ordered them to be taken out of prison, whipped twenty stripes, and then returned to confinement. A deposition in that case is in S. F. 24623:

The Deposition of John hill aged about 40 years or thereabouts and John Roberts aged about 27 yeares or thereabouts testifieth and saith that being in the prison betwixt nine and tenne of the Clock att night the 18th of this instant we heard two men both sweare and curse and use many Violent and threatening expressions severall times we asked M^{rs} Earle who they were that were in the Dungeon She replied and said they were Thomas Davis and John Egerton and further we testifie that being in prison Richard stone asked the abovesaid prisoners what chear. Thomas Davis said never the better: for you why said Stone are you ever the worse for mee then Egerton replied and said J am never the worse for noe body but for the Governour: and Councill or Governour and Magistrates & further saith not

[See Edgerton’s sentence, below p. 1157.]

MITCHLESON Sent^a

Mary Mitchleson convicted in Court by her own confession of committing Fornicat^a and having a Bastard Child; which upon the first discovery thereof Shee laid unto her master Thomas Gardner jun^r of Muddy River, but afterwards charged one Iohn Hudson to bee the Father of s^d Child, and still affirming the same. Sentenc^d to bee forthwith severely whip’t with twenty Stripes and to pay fees of Court.

GARDNER his discharge

Thomas Gardner junio^r bound over to this Court to Answer the Accusation of Mary Mitchleson as being the Father of a bastard Childe begotten on her body. The s^d Gardner appearing together with the s^d Mitchleson, Shee having since Fathered the s^d Child upon one Iohn Hudson, and now held Stedfast to the same, thô would not cleere s^d Gardner from having too much familiarity wth her: Upon consideration whereof and Testimony produced on behalfe of s^d Gardner as to his good conversation The Court Acquit him of being the reputed Father of s^d Childe and dismiss him upon paying the charge of prosecution.

HUDSON dismis’t upon his own bond

Iohn Hudson being charged by Mary Mitchleson of being the Father of a bastard Child late begotten & born of her body, Shee hav-

ing formerly accused another person to bee the Father And the Court not having sufficient prooffe at pu'sent to adjudge him to bee the reputed Father of s^d Childe, dismiss him the prison upon paying his Fees, hee giving his bond of Forty pounds for his appearance at the next Court of y^e County [619]

HARRIS his Charge

Charles Harris privateer committ^d to prison and charged for Stealing great quantities of gold Iewells &c^a out of Cap^{tn} Lemoign's Ship the Griffin and prosecuted for the same by m^r Tailer & m^r Wharton The other privateers who they Summonsed to evidence in the case, some of them appeared and others not The Evidences produced falling short of a conviction The Court with consent of m^r Tailer and m^r Wharton discharge the s^d Harris from prison and order him forthwth to depart the Town & Colony.

OWEN Ordered to depart from Boston

Thomas Owen being imprison^d on Suspicion of Attempting to fire the house of Ioshua Nash in Boston: The Evidences produced concerning it falling short of a conviction; but severall testimonies coming in against him of being a very vicious ill disposed person The Court Order that upon paying his charges bee dismis't the prison, and that hee do immediatly depart the Town of Boston and not to return again within ten miles of s^d Town without leave from the County Court under the penalty of being forthwith apprehended by the Constable imprisoned and whip't with twenty Stripes.

BACON Fin^d 10^s & Admonish^t

Frances Bacon convict^d in Court by her own confession of prophane Swearing, being as Shee saith provoked. Sentenced to pay ten Shillings in money fine to the County to bee admonish't and pay fees of Court standing committ^d &c^a

HOPKIN & GOSS Fin^d

William Hopkin and Phillip Goss of Roxbury being complained of by Sarah Bradbrooke for abuseing and beating of her &c On a full hearing of the case, The Court Sentenc^d the s^d Hopkin & Goss to

pay Five Shillings apeice in money as a fine to the County Five Shillings apeice in money to s^d Bradbrooke, Five Shillings between them charges of prosecution & fees of Court standing committ^d &c^a

INDICOTT Sent^a

John Indicott being presented by the Grandjury for Selling of Liquor contrary to Law; Upon consideration of the Evidence produced together with his own Acknowledgem^t The Court Sentenc^d him to pay Five pounds in money fine to the County and fees of Court; s^d Iohn Indicott appealed from this Sentence unto the next Court of Assistants & put in Security for prosecution of his Appeale to effect.

[There is on file in S. F. 1811.2 a deposition by John Breck, 8 Nov., 1679, as to receiving from Endicott "two parcels of strong Lique^{rs} about three gallons at both times, for which hee paid him some small matter afterwards." "Jn^o Indicott," continues the record, "own^d in Court at the same time that hee deliurd Lique^{rs} unto Jn^o Breck, but said hee was never p^d for it."

John Endicott was a member of the jury of the Court of Assistants (Records, i. 155, cf. 153), before which he came as plaintiff on appeal. He was allowed to make his plea to the remaining eleven jurors, who found him "not guilty of matter of fact."]

ROBINSON Fin^d

Solomon Robinson bound over to this Court to answer the complaint of William Coleman for casting ballast in to the Channell or places inconvenient, and not appearing upon due calling: The Court declared the bond given for his appearance to bee forfeit^d And upon the merit of the case, do adjudge him and his Sureties to pay ten pounds in money as a fine to the County according to Law, out of the Forfeiture of their bond, and charges of prosecution and fees of Court m^r Anth^o Checkley and Daniel Turill jun^r Sureties for s^d Robinson being present at the declaring of this Iudgem^t appealed therefrom unto the next Court of Assistants and put in Security for prosecution of s^d Appeale to effect. [620]

SMITH Admonish't

Thomas Smith Sen^r having been imprisoned some considerable time untill this Court for his drunkenness. The Court Sentenc^d him

to bee admonisht and to pay his fees and dismis't him upon his good behaviour.

[Smith apparently had been in jail for two years, according to the endorsement on the document that follows (S. F. 1636.2):

The testimony of Brime morfee Aiged sixty yeares or ther Abouts testyfieth and sayeth that living in the hous with John Laingburys wife haue [sene] Thomas smith very often frequent this Laingbu[r]ys hous in kiping her Company allsoe once the said smith wife Came to Call her husband away the said Laingburys wife tooke up the broume to beeat her out of dores

Margret morfee testyfieth to the same

the depotion of John Bradish aged about 31 yeares testifyeth and saith that living neare the house of thomas smith shipwrite hath often senne & heard his disorderly living following a corse of drukeness & madness in abusing of his famely and naibors in turning his wife and children out of dores in soe much y^t his wife often Complaines she is in feare of her life and is not able to abide along with him & hath often saide she must Complaine to athrowity for some corse to be taken with him;

[Or]dered that Thomas smith be Committed to the house of Correction & kept at worke E R S

[Endorsed:]

Tho. Smith Comitted to y^e house of Correction

8th Sept — 77.

S. F. 1636.1

To the Hono^{rb}le John Leverett Esq^r Gov^r with the Worp^{ll} Magistrates.

Elisabeth Smith wife of Thomas Smith humbly Sheweth That whereas her s^d husband Thomas Smith is now called before yo^r Hono^{rs} to answer for drunkenness and keeping company wth another woman; Jt is no small greife of heart to yo^r petition^r that there is so much just occasion of complaining against him for his excessive drinking, for which hee hath severall times and that very lately suffered the law; hee being aged and weake and a man much given to passion that a small matter doth distemper him; But as to his accusation for keeping company with any other woman; true in former yeares hee was called to an acco^t by authority for such a misdemeano^r but yo^r petition^r hath not of late known or heard the least cause for a complaint of that nature ag^t him though Shee hath been as diligent and observant as might bee to finde out his haunts and waies; differences have been between him and her Sons in law; which may not sometime have been without provocation on there part which have proved very uncomfortable.

Shee humbly prays yo^r Hono^{rs} to consider him with respect to his yeares, his temper and temptation and Shew him what favo^r may bee consistent wth justice which shall alwaies bee acknowledged by yo^r Sorrowfull afflicted petition^r

Elisabeth Smith]

PLATTS Sent^a

Iudith Platts convicted by her own confession in Court of being with Childe in Fornication. Sentenced to bee severely whip't wth ten Stripes and to pay fees of Court standing committ^d &c^a

TAILOR &c^a to ALFORD

m^r William Tailer, John Scarlet and Cap^{tn} Elisha Hutchinson Adm^{rs} of the Estate of m^r Free Grace Bendall dece^d appearing in Court Nov^r 8. 1679. confessed judgement ag^t the s^d Estate in their hands unto Benjamin Alford for the Summe of Five pounds in money remaining due upon a bond.

Js^a Addington Cler.

The Court Adjourned from Saturday. 8th to Thursday 13th Nov^r at nine a clock.

13th Novemb^r A^o 1679.

The Court met by Adjournm^t

Present

S: BRADSTREET Esq^r Go^r

EDW^d TYNG Esq^r

JOSEPH DUDLEY Esq^r } Ass^{ts}

SNELLING his Estate divided

For a Setlement of the whole Estate of William Snelling and Margaret his wife late of Boston dece^d intestate, there being no Surviving issue of that bed (just debts Funerall expences and charges upon the onely Childe of s^d Snelling after their death whils't it lived and charges of its buriall being paid & discharged) Jt's Ordered that the remaining Estate bee equally proportioned between Ann Davenport in right of her Brother Snelling, and William Rogers Son of s^d Margaret in right of his Mother, the s^d Rogers his halfe to bee paid unto Cap^{tn} Thomas Fiske and Thomas Patch his Guardians, together with y^e portion assigned him out of his Father Rogers his Estate: Ann Davenport producing a L^{re} of Attourney from her husband Francis Davenport appealed from this Order or Setlem^t unto y^e next Court of Assist^s & put in Security for prosecution thereof to Effect.

[See Rogers his Estate Settled, above, p. 779, and Fiske v. Rawson, above, p. 1084. Ann Davenport, as attorney to Francis, appealed to the Court of Assistants, which dismissed the case because the appeal was not signed with her name. Patch and Fiske had pointed that out in their answer (S. F. 28803), quoting the General Laws and Liberties (1672 ed.),

p. 4, to the effect that the party Appealing should do so "under his own or his Attornies hand." The case was later reviewed; see below, p. 1167.]

LEGG Fin^d 40^s

Samuel Legg bound over to this Court to answer the complaint of Constable Gilbert for affronting and offering violence to him and takeing a warrant from him: the s^d Legg being called did not appear, whereupon the Court declared his bond forfeited; but afterwards appearing, upon hearing of the case, The Court Sentenced s^d Legg to pay Forty Shillings money fine to the County, twenty Shillings to Constable Gilbert and charges of prosecution with fees of Court upon payment whereof the Forfeiture of his bond is remitt^d

The Court Adjourned to Thursday 20th instant at eight a clock.
[621]

20th Novemb^r 1679.

The Court met by Adjournm^t

DOUGLAS his Estate Setled

It being represented to this Court that Thomas Douglas late of Boston Marriner dece^d appointed Hannah his wife sole Exec^x of his last will & therein bequeathed his Estate unto his s^d wife and the Childe or Children by him begotten on her body, the s^d Hannah soon after dyed intestate, leaving one Son named Tho: Douglas, w^{ch} Son also dyed in his Childhood, and there being no Surviving issue of that bed It's Ordered that the Estate left by the s^d Tho: and Hannah Douglas bee thus Setled and apportioned. Viz^t one halfe thereof upon the Children of Eliphalet Hitt in right of s^d Tho: Douglas their Mothers brother, and the other halfe upon the heire or heires of m^r Paddy in right of the s^d Hannah: Cap^{tn} Daniel Henchman Guardian to s^d Hitts appealed from this order unto the next Court of Assistants and put in Security for prosecution thereof to effect.

[S. F. 1834.4

Boston March 2^d 1679

To the Honord Court of Assistants now sitting.

Daniel Henchman on behalf of himself and Richard Woody, as Gaurdians to the five Children of Ann Hett sister to Thomas Douglas sen^r Their Reasons of Appeal from the Hon^{td} County Court held at Boston by Adjournment Novemb^r

20th 1679. in the Case relating to the Estate of sd Douglas being all claimed by sd Guardians and half thereof is settled by sd Court on the Heir of M^r Paddy in right of Hannah the Widdow of sd Douglas

1. Inheritances pas but one way to the Kindred of the father or the Mother not to both, and this Rule holds in other Inheritances than Lands or Tenements, Likewise the blood of the part of the father is more worthy and neerer in judgment of Law then that of the Mother. Cook on Littleton Lib. 1. chap. 1. f^o 12.13. And our Law Tit. Wills, Sect: 2. saith the next of kinn shall inherit, besides o^r first Law saith, where there is no expres Law, the Word of God shall determine, and that Numb. 27. 11 passeth the Inheritance to the Fathers kindred, whence we conceive sd Hetts (being the next of kinn, on the fathers side) are Heirs to all sd Estate. And that Nathaniel Paddy (the only Brother of Hannah the Widdow of sd Douglas) that claimeth half sd Estate, being neither next of kinn or of the blood of the Douglasses, hath no right to any part thereof.

2. The Legacies given by sd Douglas are to his Relations without any respect to the Paddys, And the Estate given to his wife & child or children is to them all as Douglasses, & so to be improved, Which disposition necessarily implys a Survivor, for had there bin children; the division of the Estate had bin in thirds; but there being only one child it was in halves; And when the Mother dyed, the Estate was the entire right of Thomas Douglas her son, as sole Heir & Survivor, & who was by Administrators possest thereof

3. Although Young Douglass dyed a child & so without an Heir, yet dyed he not without an Estate, & that is not destitute of Heirs, which we with submission apprehend the sd Hetts to be: but whether it shall Center on the kindred of the Father or the Mother is what rests with the Wisdom of this Honrd Court; We also add that sd estate was sd Douglasses before he married sd Hannah, and he died with in about eighteen moneth after; besides her portion or the greatest part of it which should have ben pd to her husband in Right of marriage, is possessed by sd Paddies

D Henchman for him selfe & Richard Woody

Despite this appeal to three kinds of law, the higher court was not impressed, and confirmed the settlement of the County Court (Records of Court of Assistants, i. 153). A copy of Thomas Douglas's will is in S. F. 1834.3.]

DAVENPORT his Estate Ordered

For Settlement of the Estate of Eleazer Davenport late of Boston Marrin^r dece^d intestate being Six hundred pounds cleer Estate, It is Ordered that it bee thus proportioned between Rebecca his Relict Widdow and his two Children. Viz^t two hundred pounds thereof is Setled upon and assigned unto the s^d Rebecca, Widdow her heires and Assignes in leiu of all dowre and thirds, for her own maintenance and education of her Children: the remaining Four hundred pounds is Setled upon the two Children of s^d Eleazer Viz^t; two hundred Sixty Six pounds thirteen Shillings and four pence to Addington

Davenport his onely Son, and One hundred thirty three pounds six Shillings eight pence to Rebecca his onely daughter, and that the Son have the house and Land at his choice in payment of his portion.

MATTHEWS Fin^d 10^s

Daniel Matthews was fined ten Shillings for neglect of his appearance before the Court this day according to order And ordered a warrant to issue forth for his appearance before the Magistrates upon thursday next. 27^o instant.

MATTHEWS his Estate order^d

At a County Court held at Boston by Adjournm^t 20th Nov^r 1679. and this matter referred to. 27. instant and then.

Ordered that the Estate of David Matthews dece^d intestate lying within this Colony bee thus proportioned and Setled, his Bro^r Daniel Matthews to enjoy the whole Estate of what was found here amounting to Fifty pounds, hee paying thereout unto his Sister Margaret Matthews Fifteen pounds money, leaving what Estate is lying at Block Jsland to after consideration.

CALLEY to SHRIMPTON

Joseph Calley of Boston Marrin^r personally appearing before Simon Bradstreet Esq^r Gov^r and Edw^d Tyng Esq^r Assist. 29. Nov^r 1679. and confessed judgem^t against his Estate and person unto Samuel Shrimpton Merch^t for Fifty four pounds two Shillings six pence to bee paid in money in full of the Condicion of a bond on file wth interest and costs.

Attests. Js^a Addington Cler.

Executⁿ issued pr^o x^{br} 1679. [622]

At a County Court held at Boston. 27^o January A^o 1679.@

Present

S: BRADSTREET Esq ^r Gov ^r	W ^m STOUGHTON Esq ^r }	Assist ^s
EDW ^d TYNG Esq ^r Assist	JOSEPH DUDLEY Esq ^r }	
	HUMP ^r DAVIE Esq ^r }	

Grandjury Sworn

L ^{tt} Nath Sterns	John Weld	Jn ^o French
Moses Paine	Rich ^d Mead	Jn ^o Pratt
Tho: Dewer	Rich ^d Leads	Jn ^o Levit
Edw: Cowell	Dan ^{ll} Preston	Tho: Medcalfe
John Moore	Edw ^d Blake	Eleaz ^r Addams

Jury of Tryals Sworn

m ^r Sampson Sheafe	Nich ^o Lawrence	Jn ^o Fareing
William White	Jn ^o Baxter	Sam ^{ll} Guild
Jn ^o Craft	Tho: Drake	Daniel Fisher
David Jones	Jn ^o Jacob	Ephraim Wight

m^r Sheafe taken off and Jabez Salter put in his roome in m^{rs} Thachers Accion.

[FAYERWEATHER et. al. v. BARKER]

John Fayerweather Edw^d Tyng and Comp^a Merch^{ts} plaint^s cont^a Benjamin Barker of Treece Defend^t in an action of the case upon Acco^{tt} for refusing payment of thirty Six pounds three Shillings or thereabout due unto them from the s^d Barker as per Acco^{tt} appears with all other due damages. . . . The Iury brought in their Verdict. Viz^t that if m^r Fayerweather or Edw^d Tyng or either of them do Sweare to their Accompt and that they have received no part of the Summe Sued for, they finde for the plaint^s thirty Six pounds three Shillings money and costs of Court. Otherwise they finde for the Defend^t costs of Court m^r Fayerweather and m^r Wharton made Oath accordingly. This Accion was tryed at the last County Court but Judgem^t not entred untill now according to law the Defend^t being out of the Colony.

[Copy of attachment and return in S. F. 1785. See p. 1080, above.]

[BOLT v. WILKINSON and GREENOUGH]

John Bolt plaint. cont^a William Wilkinson & William Greenough Senio^r or either of them Defend^{ts} in an action of the case for not paying the Summe of Eighty pounds money due upon the forfeiture of a bond according to Attachm^t. . . . The Jury . . . found for the plaint. the Forfiture of the Bond Eighty pounds money and costs of Court. This Accion was tryed at the last Court but Judgem^t not entred till now the Defend^{ts} being out of the Colony.

John Bolt personally appearing in the Office 21^o Janur^o 1679. acknowledged the receipt of Forty five pounds Fifteen Shillings money from m^{rs} Elizabeth Greenough in full Satisfaction of this Judgem^t.

Js^a Addington Cler.

SCOTTOW cont^a SHAPLEIGH &c^a

Cap^{tn} Joshua Scottow of Boston plaint. cont^a m^r Nicholas Shapleigh of Kittery, m^r Edw^d Rishworth of yorke, m^r Samuel Wheelewright of Wells or any of them Defend^{ts} in an accion of the case of defamation for Slaundering the plaint. by divers false charges of falsifying his trust drawn up against him under pretence of reasons Signed by them all contained in a writing and exhibited to the Honrd Gen^{ll} Court upon the. 9th of august 1676. and managed against the s^d plaint. by the s^d Rishworth before the s^d Court at their Session on the. 11th of Octob^r 1676. as by the s^d writings more fully doth appeare w^{ch} hath been to the plaint^s very great damage with all other due damages; m^r Samuel Wheelewright appeared as Defend^t. . . . The Jury . . . found for the Defend^t costs of Court. The plaint. appealed from this Judgem^t unto the next Court of Assistants and put in security for prosecution thereof to Effect. [623]

[Captain Joshua Scottow was commander of the garrison and fort at Blackpoint on the Maine coast during King Philip's War. In consequence of complaints against him by prominent settlers, of which the following depositions are evidence, he was summoned to Boston in October, 1676, to answer to the General Court for neglecting his service, and for using the soldiers for his own behoof.

S. F. 1828.15

Richard Foxwell declareth

That whereas our honored Governo^r and Councill were pleased to Send into these parts, a Company of Souldiers for defence against the Common enemy,

the Jndians, and under the Command of Cap^t Scottow which were employed vpon his owne occasions, rather then the Countrys good, for that when the Jndians were facing us, killing vs, and burning our houses, wee Could have no helpes from the Said Scottow, notwithstanding the Souldiers were willing, J applyed my Selfe to Cap^t Winckol being here at my house, and Seeing the Indians above my house and abiding here a fortnight or thereabouts, desiring him to goe out with his Company, his answer was he had [no power] without [m^r] Scottow doe graunt him a Commission, which with my vrging did goe downe to the Said Cap^t Scottow, with an intent, to Come vp againe Speedily but did not returne in one or two dayes, Sometimes, as for my perticuler garrison, J often went to Captaine Scottow for men and amunition, but Could gett none, although J had little powder in the garrison and the townes Store was spent, but hearing of the Challenge of the Indians, to fight Cap^t Winckoll, being at Andrew Browns with his Company, and the Indians on the other Side of the river facing of them J urged Cap^t Scottow about them, telling him what a Scandall it would be to our nation, for us to neglect to answer our enemy vpon their Challenge, with Such like words, wherevpon he Said he would graunt a Commission, and if J would Carry it vp to Cap^t Winckoll, whereupon J told him J would goe to the Stage, advising him to gett it Speedily ready against J Came back, but when J Came back J found him vpon his owne occasions and no Commission writt, My request is to this Worp^{ll} Committee that they do Send out your Summons, for Nicholas Frost and Edward Small, to give in their testimonies, of what they know Concerning the Jndians Challenge, and what they know about it and whether m^r Scottow was acquainted with it or no, for he did Seemingly deny the knowlidg thereof, when J wen^t for a Commission J haue delivered my papers, to m^r Gendall concerning my accounts and what they have done about them, J know not, but if J had Charged to the full it would appeare that what J have charged is not the third part of what J am out,

Your Servant

Richard Foxwell

M^r Rishworth. J pray faile me not, to doe your endeavor, to putt an issue to my business, for J have taken a hurt of late, which J doubt will shorten my time.

That this is a true Coppie taken and Compared word for word with its origina[ll] left in the Generall Courts file October 1676 Attests

Vera Copia attest^r Js^a Addington Cler

Edward Rawson Secret

S. F. 1828.18

The Deposition of John Purrington, aged about 44 year[es] maketh Oath, that being at Saco, about 3 weeks after Cap^t Winckoll had a fight with the Indians, neere black pointe, where there was nine English men killed, vpon the Sands this deponent heard Severall men that were Souldiers, belonging to m^r Joshua Scottows garrison, declare and affirme that they and a Conciderable Company of men, with them, would have Sallied out for the releife of Cap^t Winckoll, and them men which were Slaine, Seeing them engaged with the enemie, but they Said M^r Scottow would not Suffer them, but Charge them vpon their perrill to keepe the garrison, and further Saith not

Taken vpon Oath, the 16th January 1679 before mee

Vera Copia Attest^r Js^a Addington Cler

Sam^{ll} Wheelwright Associat

The deposition of Thomas Cousens, aged about 30 yeares, maketh Oath, that being with Cap^t Winckoll, when he was ingaged with the Indians neere Blackpointe, and faire within Sight of the garrison, Cap^t Winckoll Sent two men to m^r Scottow, for Some releife, being then likely to have bene overthrowne, by the enemy; but the Said Scottow would not Send any help to vs, he had at that time vpward of forty men, in his garrison, but from M^r Foxwells garrison, which was as farr from us as m^r Scottows garrison was, we had five men which did us a great pleasure and they left but two men in the garrison, which if we had had releife from m^r Scottows garrison, in an ordinary way with gods blessing, we might haue given the enemye a great overthrow, and after the fight was over, this deponent went to m^r Scottows garrison, and heard the Souldiers generally Say, that they See Cap^t Winckoll ingaged with the enemy, and would haue gone to have releived them, but m^r Scottow would not Suffer them, but Charged them to keepe the garrison, and further this deponent Saith that it was generally reported at Blackpoint, that in theire great distress they Could have no help, from m^r Scotto[ws] garrison, he being the Commander thereof, and further Saith not,

Taken vpon Oath the 16th January 1679

before me Sam^{ll} Wheelwright Commiss^r

Vera Copia attest^r Js^a Addington Cler.

S. F. 1828.10

The deposition of John Edgcom, aged 26. yeares or there abouts, Saith, that having occasion, to goe to Blackpointe to m^r Scottows garrison, when that he had the Country Souldiers from Boston, there he Saw Some of the Souldiers imployed about Cutting of pallasadoes for the Said Scottows garrison, one a paving of his yard others of them imployed in picking vp of Stones, for the pavement of the yard, At another time the Said Scottow Jmployed the Country Souldiers in in removing of his barne, this deponent having occasion Seuerall times to goe by m^r Scottows garrison, Saw the Said Scottow traine his Souldiers vpon the hill where his barne now Standeth but never did See nor heare that he did goe out with them, vpon any publick Service, any further then to the Said hill, and So to returne with them to the garrison againe and further Saith not

Taken vpon Oath this 20th of Jan. 1679 before mee

Sam^{ll} Wheelwright Associat.

Vera Copia Attest^r Js^a Addington Cler

S. F. 1828.17

Henry Williams, aged fourty three yeares or thereabout Sworne Saith

That he this deponent was wounded by the heathen, on the 10th of (8^{ber}): 1675, and was brought for Cure to Blackpoint by water vpon the 13th ditto, and Coming did See the Smoake and heare noyse of guns, vpon Saco Sands, which was the day that Saco men, nine of them were killed, vpon the Sands and also Some of Cap^t Winckols men, at which time Cap^t Scottow had not one Souldier Come from Boston, it being a weeke after, before any Boston Souldier came to Blackpointe, and also at the Same time, there were men Sent over to releive them which were Sent from Blackpointe, and to the best of his vnderStanding, Said Scottow Sent them, he being a wounded man, was not out of doores, to See the motions there, also that he: who was Sent to Command that party, being named, Ralph Allanson, informed him, vpon his returne, that they having two rivers

to passe and the tide, being about three parts in, they Could not Come to their timely releife, and further Saith not,

Sworn in Court 28^o Janur^o 79

Attests J: Addington: C

Vera Copia Attest^r Js^a Addington Cler

S. F. 1828.14

These may Certifye whome it may Concerne that my Selfe being appointed and impowered by the generall Court, to to looke after & inspect the affaires of Yorkeshire in refference to the Militia there and in the time of the warr, with the Indians, had Severall orders, Sent for the Governor & Councill and Sometimes from the Major Generall, to Jmpresse Souldiers, for the Strengthening of the Severall garrisons, as the necessity of the places did Call for, and in perticuler to Blackpointe, and Sometimes when Souldiers were ready to march, they Said they had as willingly bee hanged, as goe to be under Cap^t Scottow, and Severall rann away, and would not goe, which was after he had bene Complained of at the generall Court, likewise in the County Court in Yorkshire m^r Stoughton being there, Severall Complaints were brought in, and J there did vindicate him what was Just, and nothing Could be charged vpon him legally, but as rumors and reproaches, Witness my hand, this 15th September 1679

Richard Waldron Serg^t major

Vera Copia Attest^r Js^a Addington Cler.

The General Court cleared Captain Scottow, but voted somewhat ambiguously that one of the complainants, Mr. Rishworth, "doe pay Captn Scottow his costs & damage" (Records of Mass. Bay, v. 121). Meantime, during the Captain's absence, the garrison of Blackpoint surrendered that place, with most of the stores, to the Indians.

S. F. 1828.20

Anthony Row aged 40 yeares, or thereabouts, Sworne Saith That he often told m^r Scottow, that if he left Blackpointe the place would be vndone, for want of Command and Rule Jn case that it should be Sett vpon, & also as farr as he Can Judge had m^r Scottow bene there, the place had not bene So vnworthily deliuered vp, but that Scottow would have had men enough Stand by him to haue defended the place & further Saith not

Taken vpon Oath by the abouenamed Anthony Row 2^d Nov^r 1676

Before me John Leverett Govo^r

S. F. 1828.21

Edward Hownsell aged 26 yeares or thereabouts Sworne Saith.

That he was at Black pointe garrison, being m^r Scottows house when Mog the Indian Came to demaund it, m^r Josslin & Mog had a treaty together, the result of it he doth not know, but he heard Mog & the other Indians Say, that they would do no hurt to the English, but that they had all of them liberty to Carry offe what they had that day untill next morning Sunrise, and they made good their word for they did no hurt, to the English there, nor hindered any from Carrying away what they had that he Saw, the time when this was done was

Soone after, Said Scottows going from Blackpointe to Boston to answer what was laid to his charge by Some of the County, at the Same time Said Scottow had a Shallop, and two Servants of his own at Blackpointe, and might haue Carried offe his goods there as well as any other of the towne, had he bene there, to haue managed the Same and he doth also in his Conscience beleiue, had Scottow bene there the house would not haue bene deliuered vp, being Soe fortified, and having Eleven Country Souldiers, and forty or fifty inhabitants there at Same time, there was neer a barrel of powder deliuered vp to the Indians, & further Saith, that the Same Summer, there was Carried off great quantity of living & dead Cattle, Shipt Some for Piscataque & for other parts, Some vessels Coming divers [times *torn*] lade with provisions, & Cattle, & further Saith not,

Taken vpon Oath: 1^o December 1679 in Boston

Before me Humphry Davie assist

. . . true Coppie . . . Hum: Davie assist

John Vicars testifieth to the truth of what is aboue, except what relateth to Mog & the other Indians, that they Said that they would do no hurt to the English, nor did he See the powder deliuered vp to the Indians, but heard it was deliuered to them

John Vicars made Oath to the foure last lines in the [*torn*] before me

Anthony Stoddard Comiss^r

S. F. 1828.11

1676

July 26: Stock at Blackpointe D^r To divers perticulers of goods Left in the Shop July 26. as by an Invoice drawne vp, appeareth under Nathanael Willets hand and my owne, and others stolen, when the English delivered, or deserted the Garrison to the Indians . . .
(8)^{ber}

	<i>s d</i>
	£96:00:8
To 1. Lawbooke 4 ^s Doctor Burgiss folio 12 ^s	£00:16:0
To. 1. french booke 1 bible divers books in Quarto	£02:00:0
To 2 p ^r of Small Seales and weights	£ 0:10:0
To. 1. g ^t p ^r of Seales & beam & 4 ^c & ½ ^c of Iron weights	£ 2:10:0
To [69 ^l] Chaine of Iron at 6 ^d per lb	£ 1:14:6
To 1: g ^t Iron Log Chaine 30 ^s : a drawing knife 18 ^d	£ 1:11:6
To a hand Saw 2 ^s 6 ^d To 2 yoaks Staples Crooks & rings 12 ^s	£ 0:14:6
To. a hammer & file 3 ^s a Chizzell 12 ^d	£ 0:04:0
To. a Steele wedge 18 ^d 2 Spades 8 ^s	£ 0:09:6
To 2. howes .4 ^s : 4 Sythes: 12 ^s . 4 Axes 14 ^s	£ 1:10:0
To a Staple & p ^r of Crooks 4 ^s .2 bill hooks 5 ^s	£ 0:09:0
To 2. Stub Sythes: 8 ^s :1 Steele picker 5 ^s	£ 0:13:0
To. 3 Coulters & 2 plowshares	£ 2:05:0
To. a New Steele mill to grinde Corne	£ 3:10:0
To a forme 5 ^s : 2 flock beds: 30 ^s : 2p ^r of blanckets 40 ^s	£ 3:15:0
To a Sitt Saw 20 ^s : a brass skillet 4 ^s 6 ^d	£ 1:04:6
To 2 Rugs 35 ^s 3 Iron Trammels 9 ^s	£ 2:04:0
To 1. p ^r Andirons 4 ^s 2 p ^r Tongs 6 ^s	£ 0:10:0

	<i>s d</i>
To a fire Shovell 3 ^s , a long Croscutt Saw 12 ^s	£ 0:15:0
To. an Iron pott & Crooks 10 ^s : 11 bush wheate 2 ^l 4 ^s 0 ^d	£ 2:14:0
To 26 bush Indian Corne 2 ^l : 12 ^s o ^d 2 bb ^s beefe 3 ^l	£ 5:12:0
To to howes 8 ^s 32 ^l Sheepswoole. 24 ^s	£ 1:12:0
To Severall dairy vessels, 30 ^s : 1p ^r bellows: 2 ^s 6 ^d : Candlesticks 1 ^s	£ 1:14:0
To a lanthorne 2 ^s 6 ^d a Iron Spitt 2 ^s	£ 0:04:6
To 2 p ^r Curtains Rods and vallenge	£ 3:00:0
To a leather Stool: 3 ^s 6 ^d an houre glass 1 ^s	£ 0:04:6
To a Chest 5 ^s Iron pott 5 ^s 2 Seaves. 3 ^s	£ 0:13:0
To a pewter quart, pinte & halfe pint pott 5 ^s	£ 0:05:0
To a bungborer 3 ^s , gimblets 12 ^d	£ 0:04:0
To 2. funnels 2 ^s Jugs: 12 ^d : 3 glass bottles 18 ^d : bell 3 ^s 6 ^d	£ 0:08:0
To a drum 40 ^s one drumhead 18 ^d	£ 2:01:6
To 4 p ^r bandaleers 9 ^s : 2 Swords & belts 20 ^s	£ 1:09:0
To 2 Skaines of match 5 ^s 2 y ^{ds} black bayes 5 ^s	£ 0:10:0
To a fire Extinguisher 3 ^s 6 ^d 2 Match lock muskets 1 ^l 8 ^s	£ 1:11:6
To 1 p ^r Shott mould, 4 ^s . flints. 5 ^s : Stock fowler .21: 5 ^s	£ 2:11:0
To 11. fire armes 11 ^l : wolfe trap 1 ^l	£12:00:0
To 1 p ^r Sheepshearers, 1 p ^r Shott moulds. 2. p ^r sheers	£ 0:06:0
To 22. hh ^{ds} Salt 22 ^l : fishing Craft from Peter Hinxen Gen ^{ll} 9 ^l	£31:00:0
To fishing Craft from Tho Westgat generall 20 ^s	£ 1:00:0
To Craft from Anth: Row. Gen ^{ll} 6 ^l 17 ^s o ^d Jo slades lines 15	£ 7:12:0
To John Starts netts: 3 ^l : 5 ^s 0 ^d	£ 3:05:0
To a shallop & appurtenances, bought of Tho: Bigford Ant ^o Row . .	£30:03:0
To 25 y ^{ds} haire Cloth at 2 ^l 6 ^d per y ^d	£ 3:02:6
To divers goods of m ^r Foxall vpon execution whereof 1 pot receaved .	£ 1:10:0
To 1 p ^r stilliards 15 ^s 1 Iron square 2 ^s 6 ^d	£ 0:17:6
To 6 Stocklocks & keys 15 ^s . a horse Coller 3 ^s	£ 0:18:0
To a p ^r of horse traces 2 ^s 6 ^d a Chaine 3. 6 ^d	£ 0:06:0
To a drawer & twilted Coate	£ 0:15:0
To a box of brimston, & box of Cod hooks	£ 1:15:0
To a marking Iron. 18 ^d a Croop 12 ^d Tobacco 1 ^c	£ 2:18:6
To 2 p ^r pincers. 2 ^s 6 ^d : 1 p ^r beetle rings & 2 wedges 5 ^s	£ 0:07:6
To 7 hides: w ^t 270 ^l : at 3 ^d	£ 3:07:6
To a mortising axe 3 ^s an Iron Chaine 19 ^s	£ 1:02:0
	<u>250:05:8</u>

The Peticulers abouementioned, J doe attest for the Substance of them to be left by my master Scottow in the Garrison, at Blackpointe, & warehouse & were lost, and the account of the goods left in this Shop & delivered to me in the yeare 1676 J wrote it with my own hand, the hides abovementioned, & Some Small peticulers of household goods in his house, J am not So fully Satisfisfyed about, Witness my hand, Blackpointe March 28: 1678

Nathaniel Willet

Nathaniel Willett owned this attest, and made Oath unto it the 28 March 1678 Before mee

Josh: Scottow Commiss^r for York

	Per Contra Cr	s	d
Per 18: $3\frac{3}{4}$ $\frac{1}{8}$ y ^{ds} red Cotton at 3 ^s per y ^d		£2:16	[]
Per 3 $\frac{1}{2}$ y ^{ds} white Cotton		£0:09	[]
Per 2 p ^r mens Stockings 5 ^s : 3p ^r wom ⁿ Stockens 6 ^s		£0:11:00	
Per Needles 2 ^d Comb 12 ^d Thread 6 ^s 8 ^d		£0:07:10	
Per Tape 7 ^s 6 ^d Buttons 1 ^s 4 ^d galloone 2 ^s		£0:10:11	
Per Silke 12 ^d Sugar 2 ^s knives 18 ^d Twine 10 ^d		£0:04:06	
Per Sarge: 3 $\frac{3}{4}$ $\frac{1}{8}$ y ^{ds} 19 ^s Silke 1.8 ^d		£1:00:08	
Per 27 $\frac{1}{2}$ $\frac{1}{8}$: kersy at 3.6 ^d		£4:16:08 $\frac{1}{4}$	
Per powder 11 $\frac{1}{4}$ 1 ^l 2 ^s 6 ^d Codlines 32 at 2 ^s 6 ^d : 4 ^l		£5:02:06	
Per Small lines 4 ^s : 6 Codhooks 1 ^s 8 ^d Salt 8 ^s 3 ^d		£0:14:05	
Per Ind: Corne 10 $\frac{1}{2}$ bush. 22 ^s : Shoos 6 p ^r 30 ^s		£2:12:00	
		<hr/>	
		19:06:01 $\frac{1}{4}$	
Per 24 knotts Twine 20 ^s Squidlines 19. 19 ^s		£1:19:00	
Per 2. netts Sold. 5 ^l a bate mending 33 ^s		£3:07:00	
Per 11. bush. Charged wheat to the Countrys account		£2:04:00	
Per a Croscutt Saw, found 11 ^s : Steele picker 5 ^s		£0:16:00	
Per Andirons 4 ^s		£0:04:00	
Per 2 Trammels returned		£0:06:00	
Per Salt Spent in garrison .3. $\frac{1}{2}$ hh ^{ds}		£0:06:00	
Per a Small percell not valued being 3 $\frac{1}{2}$ hh ^{ds}		£3:10:00	
Per Salt to fisherman 3 ^l		£3:00:00	
Per a Triangular boarer 2 ^s		£0:02:00	
Per 11 $\frac{1}{2}$ y ^{ds} haire Cloth at 2.6 ^d		£1:08:09	
Per Netts vallued 5 ^l		£5:00:00	
		<hr/>	
		44:12:10	
Per Balance of acco ^t & due to proffitt and Losse		205:12:09	
		<hr/>	
		250:05:08	

To be abated out of this ballance Supposing the 7 hides might be

Sent to Boston 3^l 7^s 6^d

Josh: Scottow:

Erro^{rs} Excepted.

Sworn in Court pr^o May 1678 by Cap^t Joshua Scottow, to be a Just and true account, being Compared with his booke

as attests Js^a Addington Cler

. . . true Coppie . . . Js^a Addington Cler

After returning to that region for another term of duty to restore order, Captain Scottow endeavored to have his revenge of his defamers.

S. F. 1828.3

The declaration of Joshua Scottow Plaintiffe against Nicholas Shapleigh, Edward Rishworth, and Samuel Wheelwright, or against any or all of them To the honorable County Court & Jury Sitting in Boston, this 27th of January 1679

Gentlemen to give you as little trouble as J Can breifly, that which my Case calls me to declare, and requests your attention to Concoider of and determine is

first not whether any dammages shall bee paid me or no, Nor 2^d whether the parties Sued at present, be the proper debtors for that which J now Sue them, for, for the generall Courts Judgment in this Case [hath] resolved both those questions, first that dammages Shall be allowed to mee, and that also by the Defend^{ts} now Sued, what the Generall Court hath putt out of question, Cannot therefore be the question, for me to Speake to or the Court to Concoider,

2^{dly} affirmatiuely, That my worke to declare, and the Court & Jurys to Concoider of is, only what the defendants ought to pay me, as Just dammages Sustained by me from them, That they haue damnified me the generall Court hath Judged already, what they haue damnified me is presented to the present Court & Jury to determine.

for manifesting what my dammages are, J request the reccord of what the defendants Lay to my Charge at the Generall Court may be read, which J here present, and 2^{dly}, that the Courts Judgments, in the Same Case, after all parties heard may be read also, the reccord of which also, J present to the Court & Jurys Concoideration, first they Charge me with Improving the Countrys Souldiers, on my owne perticuler occasions, and neglecting the Service of the County thereby endeavoring to putt the Charge of those Souldiers vpon my Selfe, yet though the generall Court hath acquitted me from those Charges,¹ as vnjustly laid vpon me, and have declared my faithfulnessse in the trust Committed to me, and haue ordered the County to pay me my disbursments, and my accusers and now defendants to pay my Costs of Court, which they valued at 9^l: 13^s: 8^d, which Costs the complainers haue Jointly paid, and the Said generall Court Judging my accusers, and now defendants, to pay my dammages also Sustained but not determining how much dammages Should be allowed mee because it was not then determinable, my great damage arising from my being drawne from my garrison, to answer their Complaints against me at the generall Court, at which time tidings Came of the rendring of my garrison, to the Indians vpon articles, and So Could not then know what dammages to plead, but the Generall Court having already Judged, that my accusers, and now defendants Should pay my damage[s] as being the Causes of them, and time having now brought truth to light J declare as followeth,

first, J might and doe Justly Charge them, with damage done to my reputation, as the reccord of their Charge against me to the [Gener]all Court with the reccord of the Courts Judgment, proues, together with Major Waldons testimony

And 2^{dly} Though J might Charge them with dammages Sustained by the heathen in Common with others, by meanes of my absence from Black point, and also all that my Charge of about 40^l to regaine my house, which J purposely decline, as not willing to aggravate their Charge, But 3^{dly}, This J must also Charge them with, that when my garrison was rendred vp to the Indians vpon articles, at that time when J was forced thence to Boston, to answer their Complaints if my presence at Blackpoint, Could not haue repulsed the Indians as they did that kept the forte afterwards, and So haue Sued my Selfe and others from the damage that was Sustained by the Surrender, yet this is out of peradventure, that J having two Shallops and Some men of my owne at the fort J might haue

¹ Records of Massachusetts Bay, v. 121.

Carried away my household goods, and merchandizes from my warehouse, which J wholly lost, to the value of 205^l as my accounts attested unto prove, which J here present to the Court & Jury, all men there having a liberty by articles, with the Jndians, for a Certaine time agreed vpon, for their Carrying away their goods, which the owners there did improve and Carried their goods away, as Sundry witnesses of them, that did Carry away their goods are here presented, to prove which like freedome to Carry away those goods, which here J plead dammage for, J might haue had, had J bene present, to improve it, but Could not, being then drawne to Boston, to answer their vnjust Complaints, therefore J doubt not but that the honored Court & Jury, will See Just Cause to allow me the full dammages pleaded and proved, that by their meanes J did Sustaine

4^{ly} This also J must Charge them with, that by their Stopping about hundred pounds which the Courts Judgment declared, was the Countys right to pay me, and were at that time able So to doe, which they did to putt the Charge of those Souldiers vpon my Selfe, and now through delays they putt off that payment, the County is So impoverished that J Cannot gett any thinge of it to this day, wherefore J hope the Court will See Just Cause, to allow me that dammage also from them Jt being So evident, that this dammage also was procured by their means Soe as the whole aboue being Considered, the law of god, our native Land, and this Country, Law .6. f^o (1) provide[d] for the indemnifying of every mans life, name, & Estate, all which the Defend^{ts} Struck at, Leaving the whole to the honord Bench & Juries determination he humbly Subscribeth himselfe.

Josh: Scottow Plaintiff.

Vera Copia Attest^r Js^a Addington Cler.

Samuel Wheelwright's principal argument in answer to Scottow's declaration (S. F. 1828.5) was that he had had no damages expressly assessed on him by the General Court. Scottow issued prolix Reasons of Appeal (S. F. 1828.4), citing Deuteronomy xix: 15, and "o^r Mattachusetts Magna Carta in o^r Law booke folio 1. . . . No mans Honour nor good name shall be stayned (much less bloodily) &c." Wheelwright returned a brief answer (S. F. 1828.6), asserting that they did not exhibit any complaint against Scottow to the General Court, but "only gaue an acco^{tt} of what came to o^r hands, as wee ware betrusted by the Hon^d Gen^r Court, as in duty wee ware bound." The Court of Assistants (Records, i. 152) sustained the lower court.]

DUDLEY &c^a cont^a PAIGE &c^a

Paul Dudley and Edw^d Tyng Jun^r plaint^s cont^a Nicholas Paige and John Poole in behalfe of themselves and Comp^a Defend^{ts} in an accion of the case for the Forfiture of a bond of two hundred pounds money under their hands and Seales by the non performance of certain covenants mentioned in a Charter party bearing date the first day of January. 1677. in w^{ch} s^d bond is included with all other due dam-

ages; . . . The Jury . . . found for the plaint. two hundred pounds money being the Forfiture of y^e bond and costs of Court: Upon Request of the Defend^t & hearing of both partys The Court chancered this Forfiture to one hundred and Sixty pounds mony (not including any disburstm^{ts} made the Hiro^{rs} upon the vessell before the expiration of the uncertain time) & costs of Court: The Defend^{ts} appealed from this Judgem^t unto the next Court of Assistants & put in Security for prosecution thereof to effect.

[S. F. 1837.7

This Charter party of freightment, Jndented, made, and Concluded the first day of January in the yeare of our Lord, One thousand Six hundred, Seventy & Seven By and Betweene Edward Tyng Jun^r and Paul Dudley of Boston in New England Merch^{ts} Owners of the good Catch called Mary of Boston, of the burthen of Twenty five Tons or thereabouts, now lying in the port of Boston, on the one part, and Nicholas Paige and John Poole of Boston aforesaid, merchants in the behalfe of themselves and Company, on the other part Witnesseth That the S^d Edward Tyng and Paul Dudley have and hereby do lett to freight the hull or body of the S^d Catch with all her tackle apparrell and appurtenances vnto the S^d Nicholas Paige, John Poole and Company merch^{ts} and the s^d Nicholas Paige Jn^o Poole and Company have hired her for five months Certaine and five months more vncertaine for a voyage to be made with her, by gods assistance, from Boston aforesaid to Ronoake, and from thence to Berbadoes Nevis and Jamaica, or either of them, or any other of the Careebe Jslands, and So to the bay of Campeachy, and from thence to Boston aforesaid, the port of her right discharge, And the S^d Owners of the S^d Catch do hereby Covenant that the S^d Catch is, and So during the aforesaid voyage Shall bee kept Strong and Stanch, well and Sufficiently tackled & apparilld with masts, Sailes, Saileyards anckors, Cables, boate Oares, and all oth^r Instruments and furniture necessary, for Such a Catch in Such a voyage Jn Consideration whereof the S^d Nicholas Paige & John Poole in the behalfe of themselues and Company, do hereby Covenant promise and graunt, to and with the S^d Owners of the S^d Catch, to pay or Cause to be paid vnto the S^d Owners, their Exec^{rs}, adm^{rs} or assignes, the full and Just Summe of Tenn pounds of Lawfull money of New England per month reckoning the month according to the Callender, and So proportionably for the odd dayes vnder the month, for the full freight or hire of the S^d Catch, for So long time as She Shall have bene in the S^d Merchants Service, in Manner and forme following that is to Say the full freight or hire that Shall be due at her arrivall, at her first delivering port in the Indies, whether it be Berbadoes, Nevis Jamaica, or any other of the Careebe Jslands, is to be p^d and shall be paid within Thirty days next after Certaine Jnformation, given in Said Boston of the s^d Catches arrivall there as aforesaid, and the full remainder of the S^d freight or hire within Twenty days next after the arrivall and discharge of the S^d Catch at Boston aforesaid the port of her right discharge, And the Said months pay is to beginne, and Shall be accounted from the Second day of this Jnstant January, and end when the last goods Shall be deliuered, out of the Said Catch at Boston aforesaid, the port of her right discharge, And the Said Merchants freightors, do hereby further Cove-

nant, well and Sufficiently to victuall and man the S^d Catch, for to performe the voyage aforementioned, and to provide a Sufficient pilott for the S^d Catch in her voyage from Boston to Ronoake, And further, that in Case the Said Catch, Shall Stand in neede of any repaire during the S^d voyage, that then the S^d Merchants freight^{rs} shall and will disburse for the necessary repaire of the S^d Catch, So that She may be able to performe the voyage aforementioned, which S^d disbursements shall be Subducted out of the freight or hire of the s^d Catch at the port of her right discharge, Summe for Summe, without allowance, And it is mutually agreed by and betwene the S^d parties to these presents, that the S^d Merchants freightors, Shall and will pay or Cause to be paid Two third parts of all the port Charges, and the S^d Owners one Third part thereof, that Shall arrise and accrue for the S^d Catch, in the S^d voyage, And lastly for the true & reall performance and accomplishment of all and Singular the Covenants grants articles, payments and agreements, and all other things above rehearsed the s^d parties have bound, and hereby do binde, and oblige themselues their heires Exec^{ts} and adm^{ts}, each vnto the other in the penall Summe of Two hundred pounds of lawfull money of New England, well & truly to be paid, by virtue of these presents. Jn Witness whereof the partys abouenamed, to these present Charter partys, Interchangeably have Sett their hands and Seales, the day and yeare first abouewritten

Nich^o Paige & a Seale
John Pole & a Seale

Signed Sealed and delivered in the presence of vs (well and Sufficiently) first interlined

Edward Lilly
Jsaac Walker
John Hayward Scr

Own^d in Court 27^o Janur^o 79 by m^r Paige and m^r Pole

as attests Js^a Addington Cler

Endorsed,

It is Concluded and agreed vpon, betwixt Edward Tyng and Paul Dudley, owners on the one party, & m^r Nicholas Paige, m^r John Poole and Paul Dudley hirers on the other party, that the Ketch proceede to Jamaica, from this place, and from thence to the bay of Campeachy and from thence to Boston directly, foure months hire being due, to be paid at Boston, Thirty dayes after news of her arrivall at Jamaica, reference to the Charter party in other things being had, Witness hereunto our hands and Seales, this fourth of Aprill 1678 the vessel entring into pay the Seventh of January 1677

Nich^o Paige & a Seale
John Pole & a Seale
Paul Dudley & a Seale

Witness

Thomas Skinner
James Butler

Own^d in Court, 27^o Janur^o 79: by the three parties: Subscribing attests

J: Addington: C

Instead of setting sail on the appointed voyage, the ketch Mary appears to have tarried in the Governor's dock in Boston. Judge Tyng

(the plaintiff's father) had her surveyed by four shipbuilders, who reported (S. F. 1837.1) that she was "Sound and Stronge and Sufficient to performe any voyage that a vessell of that burden is Capable to performe"; four other experts reported (S. F. 1837.11) that she was "Strong and Substantiall, fitt for the Sea, and her decks thite and Sufficient . . . as also that she is thite and well Caulked both below and in her vpper works." Paige and Poole later asserted (S. F. 1837.9) that the Mary was only

. . . worth, fifty pounds: being and old vessell Bult vpon an old Shallop, and very Dangerous for men to venture there Liues in, allthough, shee had a suruay, it was in the winter time soe that the Suruayors could not Judge soe well as they might haue done had it bin a Couenient time of the year, But when others had taken notis what shee was, noe masto^r or men Could bee procured to sayle in her for seuerall months, After shee was Hyred: as will appeare by there owne protest.

On 2 February 1677/78, Tyng and Dudley entered an instrument of protest (S. F. 1837.5) against Paige and Poole for neglecting the ketch so that she was subject to damage and detriment. This appears to have had the effect of getting the Mary under way, and a rough passage she had. One stage of the homeward voyage is described in a letter of her master from St. Kitts (S. F. 1837.10):

S^{rs}

My Service presented to you, this is to Certifye you of my troublesome voyage, J were in the gulfte nineteene days, in the most Cruell weather, that ever man was in, but blessed be god J am escaped cleare, but J have splitt all my Sailes, and J beate Twenty one days afterward, J gott cleare before my men forced me to beare away for my water well Spent, and for feare y^t wee should not gett in, they would not beate no longer, a tedious voyage J haue had as ever had man, now J do intend for Nevis and if J Can gett a price for my wood J would dispose it, Jf J Cannot J will away for Corrisoe, and So for Jamaica and the bay, and So home, nothing else at present but rest

Yours to Command

Ro: Lisly

Christopher Novemb^r y^e 11:78.

Superscribed: These for m^r John Poole and m^r Paul Dudley, Boston.

Vera Copia Attest^r Js^a Addington Cler

S. F. 1837.15

The Deposition of James Allison, aged Twenty Eight yeares or thereabouts, Testifyeth and Saith, that he being in the Jsle of Nevis in the yeare 78 that there did See Robert Lisly, and did heare him and Company Say, that all the Sailes that they had were not worth any thinge, and that they were forced for to take their bed Sacks for to mend them, and that if they had good Sailes they might have gott home, and not gone for any of the Careebe Jslands, and further I did

heare the Said Lisly Say, that he was forced for to sell his Cargo for to fitt the vessell, and that it Cost him more more the hull of the vessel was worth.

Taken vpon oath, Jan^y 27^o 16⁸⁸ before

Peter Bulkly assist^t

Vera Copia Attest^r Js^a Addington Cler

Others deposed to much the same effect; Robert Pelton said that in Nevis, in 1678, he had heard Lisly and his mate, Stephen Butler, both blame the sails for their having been blown off the coast of New England, "for they had not a Saile that would Stand in the boltrope."

The following document (S. F. 1837.4) is probably the basis of the plea in this case:

Plea for penalty of Charter party

That it is neere Twenty five months, Since our ketch entred vpon their Immployment, her pretended voyage, being from Boston to Jamaica, from thence, to the bay of Campeachy, and from thence directly for Boston according to Charter party Dated prim^o January 1677

That neere two months after, the letters of Said ketch drew a protest against the hirers, for all dammages, that might happen to Said vessell for their not putting men on board to Secure S^d Catch and furniture from all dammages, that might happen, but letting her lye in the Governo^{rs} dock at Boston, with none to looke after her, their not fitting out s^d vessell in time, being wee doubt not the Occasion of her being blowne offe the Coast, when She attempted it, as hath bene the Case of other vessels,

That the ketch was every way Substantiall to performe the voyage of 5. months Certaine and 10. vncertaine appeares, by the Survayes, and other Evidences presented,

That in this time of the vessels absence, she hath made many voyages Since her vncertaine time was out, viz^t from S^t Christophers to Saltitudus, from thence to Jamaica, from thence to the Camanus, and from thence to S^t Christophers againe, wee being kept out of our money and vessell, which may rationally be accounted greater dammage, then the penalty of the Charter party, the hire of Said Katch, the time they have had her amounting to about Two hundred and fifty pounds at 10^l per month, and hath bene formerly lett at 12^l per month.

That the hirors of S^d katch Cannot make appeare, any disbursment vpon her, before the vncertaine time was out, and if they pleade for further time to discover anything, wee answer, Jt is about fifteen months, Since the vncertaine time was out, for the returne of our vessel which is time too much to be informed in, we are Sure to long for vs to be kept out of our due

Vera Copia attest^r J. Addington Cler

Paige and Poole not only appealed, with reasons (S. F. 1837.9), but sent up the following petition (S. F. 1837.6):

To the Hon^{bl} Court of Assistants, in Boston March 5. 16⁸⁸.

The Petition of Nicholas Paige & Iohn Pole.

Humbly Sheweth

Wheras m^r Paul Dudly & Edward Ting Iuni^r Commenced a suit against yo^r Pet^{rs} and obtained Judgment at the last County Court held at Boston, to the

value of Two hundred pounds, being for the forfeiture of a Bond of Charterpartie for y^e Same Summe; yo^r Pet^{rs} at Same Court Entreated for a Chancery of sd Bond, wherupon The sd County Court did give Judgment, that yo^r Pet^{rs} pay y^e said Dudley & Ting One hundred and Sixty pounds, wherein your Petition^{rs} humbly conceive no Chancery was granted. for, yo^r Pet^{rs} haveing already paid the sd Dudley & Ting Forty pounds as may appeare endorsed on y^e Charterparty, and the whole bond being but Two hundred pounds, & yo^r Pet^{rs} being adjudged to pay one hundred & sixty pounds more, w^h maketh up the full bond

And Whereas the sd Dudley & Ting did at y^e sd County Court exhibit a certain paper therin rendering their pleas & reasons against a Chancery of sd bond, yo^r Pet^{rs} declare they never had a copy therof, or time for an answer therto, w^h paper yet remains although yo^r Pet^{rs} words in their Iust defence are forgotten

Your Pet^{rs} humbly conceive that the sd Dudley & Ting are the real causes of our Breach of Charterparty, by the great defects in the Sailes & fitting out sd Vessel, for such a voyage as hath been fully proved, for the Vessel was blown off thes Coasts for want of Sailes & Suffitient Rigging, long before the time was out, they being then incapacitated to Supply her, but were forced, (to preserve lives and vessell) to bear up to the first port they could make w^h was Nevis and ther fitt the vessell out of yo^r Pet^{rs} Cargo; And yo^r Pet^{rs} Judge y^t that Clause wherein wee were bound to supply her with Necessaries out of our Cargo, the sd Dudley & Ting allowing our disbursts out of the hyre, was that w^h Cast us; they making it their plea, that her time was out before She came to Nevis, and Say wee shall never recover our disbursts w^h as yet wee are incapable to prove. And whereas wee give bond in our Charterparty for Two hundred pounds for a Vessel not then worth Fifty pounds by any rationall mens value being so old & badly fitted w^h was our great weaknesse. And the vessells being blowne off is to the great advantage of the sd Dudley & Ting, w^h had shee not been blown off Ther had been litle due to them, Considering our great expence in our Continual keeping sd Vessel in needfull repaire, And yo^r Pet^{rs} are by them threatned to bee farther troubled about her, so that wee know not when wee shall have an end of our troubles. And whereas yo^r Pet^{rs} gave so much hyre per m^o for such a vessell, the reasons were because the voyage then was to bee made to Roanoak, & might have been made in a short time, & then vessells were scarce, and also then yo^r Pet^{rs} were but fifth parts, but by Collaterall agreement was Altered.

Therefore yo^r Pet^{rs} humbly pray yo^r Hon^{rs} that Yee please to Consider our Cace as it is Circumstanced & attended wth All losses, And that yee please to grant yo^r Chancery upon sd Bond, w^h wee hope your Hon^{rs} will See good to grant it being y^e grand reason of our appeale to yo^r Hon^{rs} for Relif in this Cace and yo^r Pet^{rs} shall ever bee obliged to pray &^c

Nicho: Paige
John Pole

Dudley and Tyng's Answer to the Reasons of Appeal is in S. F. 1837.12. The Court of Assistants (Records, i. 155) confirmed the former judgment and assessed 43s costs on the appellants.]

MARYON &c^a cont^a WRIGHT

John Maryon and John Williams Feoffees in trust for Ezekiel and Mary Brisco Children of the late Ezekiel & Rebecca Brisco plaint^a

cont^a Cap^{ta} William Wright who married wth the s^d Rebecca Defend^t in an action of debt of Four hundred pounds money according to Attachm^t. This case was submitted by consent of partys to the Bench without a Jury who upon a full hearing and consideration of the severall pleas and evidences in the case produced gave Judgem^t for the plaint^s that the Defend^t do deliver up unto the plaint^s upon his Oath all the movable Estate in his hands which hee received with his late wife Rebecca (that so they may cleer the house and Land for the Orphants so far as it will reach) and pay costs of Court.

WILLIAMS cont^a TOWNSEND

John Williams plaint. cont^a James Townsend Defend^t for breach of Covenant to the plaint^s damage Fifty pounds money &c^a according to Attachm^t. . . . The Jury . . . found for the Defend^t costs of Court granted Sixteen Shillings eight pence.

Execution issued 6^o march. 1679.

[For the background of this case, see Townsend v. Williams, below, p. 1125. The following petition does not appear to have been granted, at least in so far as permission for an appeal is concerned, since there is no mention of such an appeal in the Records of the Court of Assistants.

S. F. 1833.4

To the honored County Court sitting in boston this 26^t: of feb: 1679 by ad-iornment

John Williams Craus fauor of this honnored Court to Grant him the liberty of the law to appeall from the verdict of the Jury, finding for the defendant in the action whearin I was plaintiue against James Townsend for not performing of Couenant because the other action I appeald from the evidences were intermixt with this and made vse of in both actions and Cannot soe leggally bee manadged [?] which I vnderstood not tell I Came to take them out

or that I may haue liberty to haue all the evidences to bring them in: in the former appeall soe waiting for your answer I shall still pray for honnors welfar

John Williams]

GRIDLEY cont^a WRIGHT

Joseph Gridley plaint. cont^a Edward Wright and Mary Wright his wife Defend^{ts} in an action of the case for defamation and Slaunder according to attachm^t. . . . The Jury . . . found for the plaint. Five pounds money Or that Mary Wright do make a publique acknowledgem^t to the Satisfaction of y^e Court and costs of Court granted nineteen Shillings.

Execution issued 3^d march. 1679.

RAWLINS cont^a ELLIOTT

Joshua Rawlins plaint. cont^a Henry Elliot Defend^t in an action of the case for withholding an Indian Squaw named Jane to the plaint^s damage Fifteen pounds money &c^a according to Attachm^t. . . . [624] The Jury . . . found for the plaint. The Indian Squaw Sued for Or Six pounds one Shilling money damage and costs of Court.

[See case of Danson v. Elliot, above, p. 1086.]

DANSON cont^a ELLITT

George Danson plaint. cont^a Henry Ellit Defend^t in an action of defamation according to attachm^t. . . . The Jury . . . found for the plaint. one hundred pounds money Or that the Defend^t do make such a publique acknowledgem^t in this Court of the wrong and Injury done by him to the plaint. as shalbee to the Satisfaction of this Court; and do deliver the same in writing under his hand: Also that hee do make the like acknowledgem^t at Stoningtown and do deliver a Certificate under the hands of m^r Tho: Minor and Samuel Mason or any other of the Commission^{rs} there of the performance thereof within two months from this time unto the plaint. and costs of Court.

[See case of Danson v. Elliot, above, p. 1086.]

KEEN agt. DAFFORN

John Keen plaint. cont^a John Dafforn Defend^t in an action of reveiw of a case tryed at the County Court in Boston held by Adjournm^t of the Gen^l Court 4^o novembr^r ult^o wherein s^d Keen was plaint. ag^t Jn^o Dafforn Defend^t in an action of debt of £.14:15^s mony being so much s^d Keen paid unto m^r Simon Lynde for Acco^t of s^d Dafforn but Judgem^t was then granted against him for costs of Court whereby hee is damnfied above Fifteen pounds in money, and all other due damages &c^a. . . . The Jury . . . found for the plaint. Fourteen pounds Fifteen Shillings money and costs of Court. The Defend^t appealed from this Judgem^t unto the next Court of Assistants & put in security for prosecution thereof to effect.

[A review of a case tried at the November session, 1679, above, p. 1078.

From an account between Keene and Matthews in S. F. 1827.9 it appears that "1051:10 Wampum" was equivalent to 26*l* 5*s* 9*d* "Boston money." The following documents throw what little light on this case we can obtain:

S. F. 1827.14

The testimony of John Williams aged about :33. yeares testify that being at New: Yorke in company with m^r Darvall and m^r Keene at James Matthew's house (commonly called Long Marys') and m^r Jn^o Keene made up his Acco^t with the s^d Matthews and his wife, and they tooke m^r Darvall as paymaster for what m^r Jn^o Keen owed at that time; and J also further testify that their Gen^l Acco^{tt} they kep't was chalkes upon the wall for J had two Vessells there, and the whole Acco^{tt} that the Masters and men had was chalked upon the wall and J never see any other to the best of my knowledge

Sworn before .J: D: A.

. . . true Coppie . . . Js^a Addington Cl^{re}

S. F. 1827.11

Boston y^e 31th Octob^r 1672M^r James Matthews

Sr: J am not forgetfull of yo^r Love or my engagements to you so as to breake covenant with either of them. therefore have underwritt a noate to m^r Darvall that hee may pay you what hee hath of mine in his hands & desire you to send me word what will then remain due to you and J will Satisfy it here to yo^r order that must bee understood so far as will Satisfy the bill J gave you for my men, but what you write to me about my own Acco^{tt} J know is a mistake for J have paid it all, but what J had after my hand was hurt, which was some small matter S^r in hast with respects to yo^r wife J rest

your L^o Freind John KeenM^r William Darvall

S^r after you have satisfied the noate J charged on you for Phillip Johns, pray pay to James Matthews or his wife the remainder of what you have in yo^r hands belonging to.

S^r Freind and Servant

John Keen

Boston .y^e 31: Octob^r 1672.Own^d in Court. 31^o July .1679. by Jn^o Keen attests Js^a Addington C

S. F. 1827.8

New-yorke. April. 10th 1679.

These are to Certifie all whome it may concern that J underwritten W^m Dervall have not paid or Satisfied unto James Matthews of the s^d place on acc^t of m^r John Cane of Boston any Summe or Summes of money or other pay in Value thereof, nor will pay or Satisfy anything on s^d acc^t. But that w^t the s^d John Cane was indebted unto the s^d James Matthews is still due for ought as J know; and that J never did accept promiss or engage to pay any thing on s^d accompt nor is the s^d Jn^o Cane made debtor to me for any money as paid to the said James Matthews or Order on his acc^t As witness my hand the day and yeare first above-written

W^m Darvall

Diffuse Reasons of Appeal and Answer thereto are filed in S. F. 1827.6, 7.

The Court of Assistants (Records, i. 156) confirmed the former judgment with 39s 8d costs. But the dispute was to flourish for some time longer. See note to Earle Acquitted, below, p. 1160.]

COWELL cont^a STANIFORD

Edward Cowell of Boston plaint. cont^a John Staniford of Ipswich Defend^t in an action of debt of three hundred Sixty four pounds due to the plaint. upon the Forfiture of a bond, according to Attachm^t. . . . The Jury . . . found for the plaint. three hundred Sixty four pounds money being the Forfiture of the bond and costs of Court.

Edward Cowell afterwards appearing in Court. 31^o Janur^o 1679. acknowledged that hee was Satisfied this Judgem^t by fresh Security.

TOWNSEND cont^a WILLIAMS

James Townsend Housewright plaint. cont^a John Williams Boatman Defend^t in an action of the case upon the Forfiture of a bond of two hundred pounds in not paying the Summe of one hundred and thirty pounds money as by the s^d bond may appeare bearing date the. 23^d of January. 1678. with all other due damages &c^a. . . . The Jury . . . found for the plaint. two hundred pounds money being the Forfiture of the bond & costs of Court: On request of the Defend^t and hearing both partys The Court chancered this Forfiture to Fifty one pound ten Shillings money debt and damage and costs of Court: The Defend^t appealed from this Judgem^t unto the next Court of Assistants and put in Security for prosecut^a thereof to effect.

But as by Certificate appeares failed in the prosecution and was nonsut^d so Execution issued forth upon the abovewritten Judgem^t according to order. 6^o march: 1679.

Execution issued 6^o march. 1679. [625]

[This case grew out of the same disagreement as that of Williams v. Townsend, above, p. 1122. The covenant over which the dispute arose (S. F. 1833.8) is interesting because of its detailed specifications for the construction of a house:

This Agreement made Between Iames Townsend of Boston in New-England Housewright of the one part: And Iohn Williams of s^d Boston Boatman on the other part Witnesseth that the s^d Iames Townsend doth hereby covenant promiss and agree (in consideration of the payments and other the Covenants hereafter in these pu^tsents expressed) to Frame erect Set up and finish for him the s^d Williams upon his Land in Boston in the place where his now dwelling house standeth (which is to bee taken down by the s^d Townsend) A Tenement or dwelling house according to the dimentions following. Viz^t to contain in Length thirty

four foote more or less as the Land will beare and in breadth twenty foote and Fifteen foote Stud with two jetts in the front next the Street, and a Leanto of ten foote wide joyning to the backside to reach throughout the Length of s^d house, to Stone a Cellar underneath the s^d main house throughout the whole length and breadth thereof, to build a Stack of good brick Chimnys to the s^d house to contain six fires one in the Cellar, three upon the first Floore and two in the Chambers to inclose and cover the sides and Roofe with clapboards and Shingles, to make and place Four great casem^t frames in the front of s^d building, two cleer storey windows in the gables and two in the Cellar wall and to make outside dores and Staires into the Cellar, to fill lath & plaister the walls of s^d house throughout, to lay a Floor of boards upon Sleepers in the Cellar, to make up all partitions, to make and hang all dores, Staires and to lay all the Floors of s^d house with good merchantable well Seasoned pine boards, to make & put up pyramides and flewboards at the gables and generally to do all Carpentry and masons worke whatsoever necessary to the compleating and finishing of the s^d Tenement or building to make it tenantable, although not herein perticularly expres^t (Ceiling of the Roomes excepted) all the timber used in about the frame of s^d house to bee of good sound well seasoned Sizable white & black oake; all which workes and materials for the same (Clapboards Shingles hinges and Locks excepted) are to bee found made and done strong substantiall & workemanlike at the proper cost and charge of the s^d Iames Townsend, the Frame to bee raysed at or before the first day of May and the whole worke to bee fully done and finished on or before the last day of Iuly next insuing the day of the date of these pu^sents. Jn Consideration of which workes to bee done and finished in all respects as is above expres^t and materials for the same the abovenamed Iohn Williams doth hereby covenant promiss and agree to allow unto the s^d Iames Townsend his pu^sent dwelling house, all the timber boards & bricks belonging thereunto (hee takeing down the same) and to pay or cause to bee paid unto him his heires Exec^{rs} Adm^{rs} or Assignes the full Summe of One hundred and thirty pounds currant mony of New-England in manner following Viz^t thirty pounds at the Ensealing of these pu^sents, Fifty pounds at the rayseing of the frame, and Fifty pounds more when the whole worke is done and finished as aboves^d. Also to digg the Cellar and to finde and provide all Shingles clapboards hinges and locks for the s^d building at his own cost & charge For the true performance of which abovementioned covenants Agreements and payments the partys to these pu^sents each one for his respective part doth binde himselfe his heires Exec^{rs} and Adm^{rs} unto the other his heires Exec^{rs} Adm^{rs} & Assignes in the penall Summe of two hundred pounds lawfull money of New-England to be well and truly paid by the defective party. Jn Witness whereof they have interchangably Set to their hands and Seales this twenty third day of Ianuary Ann^o Domⁱ 1678. And in the .30th year of his Majes^{ties} Reign

Memorand^m It's agreed that the foreside and end of the house is to bee boarded underneath the Clapboards up to the first jette

Iames Townsend a Seale

Signed Sealed & Deliurd in the pu^sence of us.

Js^a Addington

John Casey

Own^d in Court. 27^o Ianur^o 79. by Iames Towsend Attests

Js Addington C

Boston 23 Ianuary .1678.

Then Rs^d of Iohn Williams the Summe of thirty pounds money according to the within written Covenant in full of the first payment I say Rs^d

p^r me Iames Townsend

Witness

Js^a Addington

Boston 26^o Iune 1679

Then Rs^d of Iohn Williams the Summe of Fifty pounds in money being in full of the within mentioned paym^t covenanted to bee paid at the Rayseing of the Frame. I say Rs^d

per me James Townsend

Testis

Js^a Addington

Vera Copia . . . Js^a Addington Cler

Williams' Reasons of Appeal have not been preserved; but the grounds of his refusal to pay the last installment of the sum agreed on in the covenant are set forth in his "Declaration to the Honored Courte of Assistants" (S. F. 1833.6):

In the Reson of Appeale we haue Declared we haue not forfeited Said Bond & thatt we Owed not 130£ when this Attach^t was Serued Nor 51£ 10^s Debt & Dammages:

Jn this we shew y^t by sd Couenantt We are to pay 130£: at thre seuerall times viz^t

30£: when y^e Couenant was Signed

50£ at Rearing sd House

w^{ch} is done as appeares vnd^r the plaintiffs hand therefore y^e 50£ is not due vntill said House be finished which is not done—therefore Not due & 200£ not forfeited there fore not 51: 10^s due mony Deb^t & damage

All which Appeares by y^e seuerall Euidences putt Jnto this Action both by y^e pl^t & Defend^t as Will at Large appeare. both by time when it aught to haue ben don manner how & what is wanting as to p^rticulars of many materialls assentionally, (requisit to fulfil sd Couenant:

Wee shall doe all Right to y^e pl^t In Giuing in y^e Euidences as he shall Desire most Conducing to his Cause Either first or Last to the End truth may Appeare and Justise may be Done Impartially:

Yo^r Hono^{rs} Seruant and the Jurys Friends

John Williams Appellant:

John hoare attorney to said Williams

There follows "A Scedule of y^e seuerall papers in this Case." A few of these papers suffice to indicate the contentions of each party:

S. F. 1833.7

Wee whose names are underwritten being desired by John Williams of Boston to veiw and examine what his new dwelling house doth want to bee finished do finde these particulars following not done according to Covenant.

- Inprimis The mantle tree in the Cellar not faced.
 2ly. The mantle tree in the Leanto Chimly not faced.
 3ly. One Partition in the Cellar and a dore left undone
 4ly. Two Partitions in the Garret not done, and never a dore to them.
 5. Three pair of Staires and but one dore to them all
 6. Seventeen dores in the house, and not one latch, katch or bolt to any one of them.
 7ly. Five gable ends to the house and not one of them fil'd.
 8ly. Two Jetties not close in the foreside: the one end and the foreside should have been boarded underneath the clapboards w^{ch} is not done.
 9ly. One Pyramid and one gutter on the backside of the house not done
 10. One gutter on the foreside of s^d house not done, so that the house is much damnified for want of it.
 11. One end of the main house and Leanto from the bottom to the top, which hath no filling at all in it:
 12 And the Cheekes of the Cellar dore, which should have been done up with brick and Lime, is not done, which should have been done.
 13. One Partition upon the wing of the Leanto Chimney not done
 14. Some of the Windows in the house open between the Window frames and the posts.
 15. The Partition in the Leanto is not done as it should bee by a workeman
 16. The Cellar Staires that go out to the Street are neither fastned with Spikes nor with trunnels.

Obadiah Stout
 Francis Dodson
 Thomas Adkins

Sworn in Court .27^o Janur^o 79 by the three Deponents

attests J: Addington C.

Vera Copia . . . Js^a Addington Cler

S. F. 1833.10

Cornelius White aged about .30. yeares testifieth and Saith that that end of John Williams his house joining to m^{rs} Pugliss^s could not bee filled because there could not bee boards put up to fill against by reason it stood so neer it. And that the middle wall in s^d Williams house between the main house and the Leantoo is boarded with plaine boards on one side, and filled lathed and plaistered on the other side which is not usuall and further Saith not: This Deponent adds that it is not usuall to fill gable ends, where a house jetts

John Pearse aged about .70. yeares testifieth to all abovewritten

White adds that W^{ms} did motion to have that end of the house filled, but J shewed unto him the inconvenience and improbability of doing it, wherwith W^{ms} seemed to bee Satisfied.

Sworn in Court by both witnesses .28^o Janur^o 79

Attests J: Addington C

Vera Copia . . . Js^a Addington Cler

S. F. 1833.11

The Deposition of William Dawes Mason aged .62. yeares or thereabout testifieth and Saith that being desired by James Townsend to go with Deacon

Allen to pass their Judgement upon a house built by the s^d Townsend for John Williams and J do Judge it to bee done workemanlike according to covenant and that hee has done rather more then less hee was obliged by covenant, as the plaistering the walls of the Cellar and the pointing the garret and that it is not usual to Seel the jetties when the Rooms are not Seeled.

Boston Janu^r .26. 1678^o

Taken upon Oath before Elisha Hutchinson Commiss^r

Vera Copia . . . Js^a Addington Cler

Deacon Henry Allen also deposed (S. F. 1833.12) that he judged the house to be built "workemanlike and made tenantable according to his [Townsend's] covenant"; and a similar opinion was given by John Pearse (S. F. 1833.16).

S. F. 1833.13

The Deposition of Gamaliel Rogers aged .22. yeares or thereabouts testifies and Saith that sometime in July last past J was at worke at Goodman Williams house, and hee would not let me go forward with my worke, because hee would have it boarded under the Clapboards and the same day James Townsend came down and they had some discourse about it, and the s^d Williams was as J thought very well Satisfied about the boarding, and J went forwards with my worke and afterwards J heard the s^d Williams Say that hee the s^d Townsend should allow him boards for the fence.

Benoni Gridly aged .15. yeares doth testify to what is abovewritten

Sworn in Court per Gamaliel Rogers and Benoni Gridley Janu^ry .27: 1679 attests J: Addington C.

Vera Copia . . . Js^a Addington Cler.

S. F. 1833.17

The Deposition of Peter Weare aged twenty and nine yeares or thereabout testifieth and Saith that hee being Employed by James Townsend about the framing & finishing of the house of John Williams from the first to the last and that it was done Substantiall and workemanlike by the middle of October and further that the s^d Williams did say severall times in my hearing that hee could not finde any fault in the worke, Farther after the s^d Townsend had framed the house in wideness and Length according to his Covenant, hee was forced to cutt of Six or Seven inches of the Length of it which was no small hinderance to the s^d Townsend and farther Saith not.

Sworn in Court per Peter Weare Janu^r 27: 1679 attests Js^a Addington C.

Vera Copia . . . J: Addington Cler

And as for the defendant's objection that the work had not been finished on schedule:

S. F. 1833.15

The Deposition of Thomas Ghent aged about 37. yeares testifieth.

That sometime last Spring John Williams the Boatman employed me to digg a Cellar for him, where his dwelling house now standeth w^{ch} house was buil^t by James Townsend and this deponent testifieth that the s^d Cellar was not digged

and finished untill the last Election day in the morning being the .28. of may. 1679. my Selfe and one more man being imployed about it.

Taken upon Oath y^e .26th of .11th m^o 1679.

Before me Anthony Stoddard Commiss^r

Owned in Court Janu^{ry} .27th 1679. on his former Oath by Tho: Ghent attests J: Addington C.

Vera Copia . . . Js^a Addington Cler.

S. F. 1833.3

To the Honred County Court assembled at Boston .27 of January .1679.

John Williams craves the liberty of the law to appeale from the Jury's Verdict to the next Court of Assistants in the action between James Townsend plaintife and my Selfe Defendant. As witness my hand this 12: of February .1679.

of
the marke | W Williams
John

A true Coppie . . . Js^a Addington Cler

The magnanimous tribute to impartiality with which Williams concluded his declaration did not impress the higher court sufficiently to counterbalance the appellant's failure to conform to legal practice. In the Records of the Court of Assistants, i. 155, we find the following entry:

John Willjams plaintiff in an Accion of Appeale ag^t James Townsend deffend^t from the Judgment of the County Court at Boston this Accion was Called no Reasons Appeard signed by a legall Attorney nor vnder y^e plaintiffs hand the plaintiff was declar'd to be non suited & the deffendant to haue his Costs seven shillings.

Williams' letter of attorney to John Hoare is in S. F. 1833.9; Townsend's bills of costs are in S. F. 1833.18, 19.]

PATTISHALL cont^a DYER

Richard Pattishall plaint. cont^a Giles Dyer Defend^t in an action of the case for refusing to deliver unto the plaint.^{or} his Order two Sutes of Armour or Corslets according to attachm^t. . . . The Jury . . . found for the Defendant costs of Court allow^d ten Shillings and ten pence.

Execution issued. 24^o april. 1680.

CLEMENT cont^a MATHER

Elisabeth Clement Executrix of the last will of Augustin Clement plaint. cont^a Timothy Mather Defend^t The plaint. withdrew her Accion.

GRIGGS cont^a CHOCK

William Griggs plaint. cont^a Peter Chock Defend^t in an action of debt of thirty five pounds mony or thereabouts according to Attachment. . . . The Jury . . . found for the Defend^t costs of Court.

CLARKE cont^a LAMB

Hugh Clarke Administrato^r to the Estate of Joseph Buckmaster of Muddy River dece^d plaint. cont^a Abiel Lamb Defend^t in an action of trespass for comming upon the s^d Buckmasters Land & cutting and carrying away wood off the s^d Land according to attachm^t. . . . The Jury . . . found for the Defend^t costs of Court granted nine Shillings two pence.

[This case, involving questions of administrators' powers, precipitates us into the middle of the litigation over the Buckminster (or Buckmaster) properties. In S. F. 2997 are fifty-two papers relating to the controversies which arose not only over the estate of Joseph Buckminster, but over that of his father, Thomas Buckminster, as well.

Administration of the estate of Joseph Buckminster appears to have been granted in 1668 to Elizabeth, his widow, and to her father, Hugh Clarke; a mutilated copy of their bond for administration is in S. F. 2997.19. In his capacity as administrator, Clarke let to his son John, in 1669, the whole estate "vntill," as two witnesses later testified (S. F. 2997.30), "the heire Joseph Buckminster cum to the Age of twenty one yeares . . . for tenn pounds per Annum in the behalfe of Elizabeth Buckminster Widdow of the sayd Joseph deceased and her Children and this was done by the sayd widdows Aprobation and consent as shee did declare & Manifest to vs." The arrangement was confirmed in 1671; a copy of the agreement, undated and in fragmentary form, is in S. F. 2997.18.

In September, 1671, the Court of Assistants ordered as follows (S. F. 2997.8):

In Answer to the petition of Hugh Clarke and Elisabeth Buckmstr It is ordered that Thomas Gardiner & m^r John Peirpoint shall & hereby are are Appointed a Comittee to lay out the peticon^r hir Just thirds as the law Directs.

The committee performed its function, and estimated "eight pounds a yeare in [Country pay to] bee a competent Rent" for the widow's portion (S. F. 2997.43).

The next January (1671/72), Elizabeth and her father made an agreement, the only surviving copy of which is badly damaged, but the general

provisions of which can be deduced from the following extract (S. F. 2997.23):

. . . Whereas the s^d Elizabeth Buckminster [wid]dow hath in hand received of the s^d Hugh Clarke admin[istrator] to the Estate of the s^d Joseph dec^d [Sixty pounds] of the s^d Estate, the s^d Elizabeth Widdow doth [hereby] acknowledge the same and Shee being [therewth fully] Satisfied as her whole due from the s^d Estate during the life of Joanna the wife of Edward Garfeild of Watertown (mother of the s^d Joseph dec^d)¹ [Shee the said] Elizabeth Widdow doth hereby absolutely and [for ever acquit] and discharge her s^d Father Hugh Clarke Administrato^r his heires Exec^{rs} Adm^{rs} & Assignes of for and from the [said] Summe and every part thereof and Shee the s^d [Elizabeth] Widdow doth hereby covenant promiss & grant to and [with] the s^d Hugh Clarke her s^d Father as Administrator [aboves^d] and to & with his heires Exec^{rs} Adm^{rs} and [assignes till] the death of the s^d Joannah if it happen before [the] Children abovenamed Joseph Buckminster shalbee [one and] twenty yeares of age and his Sister Elizabeth shalbee Eighteen yeares of age that then her s^d Children shall enjoy two full third parts of the cleere income of her s^d husbands Estate, and that Shee shall and will bee content with one third part onely of the income of the same after all charges and payments due from [the s^d Estate] is deducted; but upon the death of the s^d [Joannah] Garfeild and when the s^d Joseph & Elizabeth [the two] Children of the s^d Elizabeth Widdow shalbee [at age] afores^d the s^d Elizabeth widdow doth then [expect] (after all debts and dues are abated & paid) [to enjoy] one full third of her s^d Late husbands [whole and] cleer Estate, that the s^d Joseph and Elizabeth [her] Children shalbee securely in legall [possession of and] the s^d Elizabeth Buckminster widdow [doth hereby] also covenant promiss and grant to & [with her said] Father Hugh Clarke Administrato^r [abovesaid his heires Executors] adm^{rs} and assignes and all & every of them [that the] Sixty pounds which Shee hath now received [from him shal] bee deducted out of her third part of the [whole and] cleere Estate which then (& not till then) [she shall] receive: And for the full confirmation of the . . . abovewritten, both . . . Hugh Clarke and Elizabeth Buckminster widdow hath hereunto Set their hands & Seales this three and twentieth of January One thousand and Six hundred Seventy and one. . . .

Witnesses later testified (S. F. 2997.30) "that for the Covenant Between Elizabeth Buckminster And Hugh Clarke made the twenty third of January; That word Expressed Incum in the Covenant, it was then at the sealing manifested and declared by both parties to be the Income of the Rent only."

In the course of the next few years, the widow Buckminster married Abiel Lamb, who was apparently not satisfied with the existing state of affairs. In S. F. 2997.34 is recorded a vote of the Court of Assistants:

Upon the Motion of Abiell Lamb in behalf of his wife late widow of Joseph Buckmaster referring to her thirds of s^d Josephs Estate, M^r Thomas Weld &

¹ There had been litigation between Clarke as administrator and Goodwife Garfield in 1671. The latter had the use of part of her son's estate till her death. See the numerous papers bearing on this point in S. F. 2997 and S. F. 162105.

Thomas Garner sen^r are appoynted a committee to repayre to sd Lands & set out her thirds according to law.

J Dudley. per order

8.7.77.

S. F. 2997.26

m^r Thomas Weld and m^r Thomas Gardiner appointed by the Honorable Court of Assistants Sep^t 4. 1677. to lay out the thirds of the Estate of the late Joseph Buckmaster of muddy River to Abiel Lamb and Elizabeth his wife Relict of s^d Joseph as by s^d Order will appeare; make Oath that they did performe s^d Order and have given Account thereof to the Court, And that it was part pasture and part plow Land to Satisfaction of said Lamb, and that the fence now in controversy stood upon s^d Lambs third part dividing his pasture from his plow Land.

Thomas Gardiner further adds that hee was of the first Committee of Survey of the aboves^d thirds and that they are now y^e very same Lands not more nor less than that was assigned by the first Committee.

Thomas Weld & Tho: Gardiner made Oath of what is above. before. J: D.
Vera Copia. J. Dudley A.

The next development of which we have any record is the present suit. Apparently it was part of an energetic campaign begun by Clarke at this time to retain entire control of the estate, as a petition of Abiel Lamb indicates:

S. F. 2997.10

To the Honoured Court of Assistance sitting in Boston the 2nd of March 1678⁸

The petition of Abiel Lamb and Elizabeth his wife formerly the wife of Joseph Buckminster humbly sheweth that whereas our Honoured father Hugh Clark hath exhibited his petition before this Honoured Court in reference to the estate left by the said Buckminster to which estate your petitioners haue a Just right of thirds but could never yet Jnjoy it but haue been Very much wronged by our father Clark and his tennant our brother John Clark under pretence that the estate is indebted to them they making themselues Judges both of debt and Credit your petitioners cannot well bear such wrong having need of their own and yet loath to Complain but not receiueing any rent for severall yeares nor like to doe for the future petitioned this Honoured Court not long since for a Comittie to lay out our thirds which accordingly was done but our father Clark and our brother John Clark his tennant upon the estate will not let us Jnjoy it peaceably but haue petitioned this Honoured Court to call in their order for the laying of it out Jnsinuating as though your petitioners had obtained the saide order fallatiously which will appear to the Contrary if your petitioners may haue liberty to speak for themselues and produce such evidence in the case as will demonstrate to this Honoured Court what our Just right is and that we haue been unjustly kept from it by our father Clark which favour your petitioners humbly begs and that the Case may be Jssued without any farther trouble or suits of Law if possible and your petitioners and the Children of Joseph Buckminster secured from farther loss and dammage so your petitioners shall ever pray as in duty bound for your Honours peace.

Abiel Lamb

Clarke's petition, referred to in this document, has not been preserved. The Court of Assistants (Records, i. 158) replied to the petitions:

In the Case of Hugh Clarke & Abjel Lambe the Court sees no cause to abate of the last Court of Assistants Judgment.

Since the last previous reference to the Buckminster estate in the printed Records of the Court of Assistants is the order of September, 1677, to lay out the widow's thirds, this decision seems to constitute a victory for Lamb. In any case we find him at the session of the County Court in July, 1680, suing John Clarke for four years' rent of one-third of the Buckminster estate, at 4*l* per year. (Attachment, return, and bond in S. F. 2997.2.) Lamb was cast, and appealed on the following grounds (S. F. 2997.13):

1. For that it doth Certainly appear that there is mony due from the farm to your appelant the law of the land giuing her that right to thirds of her husbands lands & the Court hauing set out the same to her & the Jury vpon the late triall confesing the same

2 that John Clarke defendant is occupant of said land and the plantiffe hath no other par[*lorn*] for rent but vnto him it is certaine he is [*lorn*] for my thirds if not for the whole as Administratrix: to what was pleaded that J had Impowred my Father to let it to the now Tenant & therfor i was to seek rent of him, J Answer J haue Just reason to except

1 against the wittneses being sons swearing for there father¹

2 against the evidence that say accordingly by lease he did let it which lease appears not to be vnder my wifes hand neither doth that lease appear when dated nor evidence sworne to it

3 against the discretion of the old man in leting of it for tenn pound Countrey pay, when by the wisest neighbours it is Judged worth Twelue pounds mony, who will also giue the same yearly for it

The Case is breifely this your appelant hath right by law to one third of land of her dead Husbands & to third of profit during it being out of her hand she sueth John Clark occupant for about 4 years profit the said thirds worth 4¹¹ mony per Ann^m & common Law nor Justice directs her to no other way for payment, but what she hath taken.

Clarke answered (S. F. 2997.15):

1st Whereas your apellant saith that he hath right to one third pt of the farme therfor to the rent

answ^r if that be granted yet no damage to the defend^t nor to his case, nor indeed is it the case in controversy whether the apellant hath a right to a third p^t of the farme: but the case is whether it be the defendants duty to pay rent to the apellant that nev^r made any bargaine with him: but only with the ad-

¹ A reference to S. F. 2997.30, twice quoted above, which is signed by John Grosvenor and Uriah Clarke.

ministrato^r & ingaged to pay rent to him: & so hath done: as: apeares by evidence in Court & to pay to both seems to be uniust

2ly Whereas the apellant saith: that I am his tenant & he hath no other to goe to for for his rent I answ^r: how I came to be his tenant I doe not yet know: I nev^r rented any thinge of him: but of the administrato^r: therfor no reason to pay rent to the apeallant but if law say I must pay rent to the apealant: the defend^t hopes he shall be salued vpon the administrato^r wth whom he covenanted & whom he paid & not forced to pay both.

But 2ly whereas the apellant doth Implicitly say that his wife did impower her father to lett the estate as far as there is truth in the evidence: & so himselfe doth imply cleerly that y^e administrato^{rs} act is good in lettinge it to ye defend^t. But objects against the evidence as illegall beinge sons for their father

answ^r To which we say 1st that if the gentleman that writt these reasons were not deeply ingaged in the case the defend^t would leaue it to him to Judge whether that a son & a son in law be not legall evidenc for or in a case concerninge their father but that is beyoind dispute we leave it to y^e Court to Judge: if that were y^e case: but the apellant is much mistaken when he saith the son is wittnesse for the father for the father was not defend^t in the case: but the the controversy is betweene brother & sister & the evidence as neere related to the one as y^e other therfor no reason to object against the evidence except it be to cast dirt

2ly whereas the apellant objects against the Lease as not beinge valid: not beinge dated as they say nor evidence sworne to it We answ^r that the Leaser hath acknowledged his act in Court therfor no need of oaths neither any nessessity of his wifes hand to it she havinge impowred her father by covenant before & also consented to the lettinge of it to the defend^t as apeares by the covenant & evidence in Court nor no law required it: it beinge no conveyance of title

3ly wheras the apellant objects against the discretton of the old man: if he had sd: his father he had shewed more maners. we answ^r the old man as he is pleas^d to call him: my aged father was not indiscreet in lettinge the land to cheap: for what ev^r some may say that it will yeild more now yet at the time when it was let there were some of the neighbours as wise as the wisest spoken of in the reasons of apeall did Judge it [a] hard bargaine for the defend^t which were the comittee apointed [by] the Honrd Court of assistants to lay out the widdows thirds And indeed any mans reason will g[worn] that there may be great changes in so longe a time as the Lease expresseth & Indeed if the change of time had held occasioned by the late wa[r] it would haue yeilded little or nothings & the poore defend^t paid all his rent then & therfor hath reason to haue the benefitt now if any be to be had.

The apeallant his last plea is that he hath a right to rent w^{ch} we have answered in the answ^r to the first reason: & for the second part of his plea. that he hath no other to goe to for rent but Jn^o Clarke the apellant doth much forgett himselfe in so sayinge: for he hath receiued pt of his rent of his father the administrato^r & might haue had the rest if he had pleased w^{ch} makes the defend^t doubt that he would have had rent from both: or else why should he sue the defend^t when he had received pt of his rent before & might have had the remainder if he would haue come to an account with the administrato^r as apeares by evidence in Court.

The Court of Assistants (Records, i. 165) reversed the former judgment and found 13l 6s 8d for Lamb. In order to remove cause of further

friction, the County Court, in March 1680/81, replaced Hugh Clarke as administrator by Abiel Lamb, who was to pay fifty pounds to his father-in-law at the rate of eight pounds a year (S. F. 2997.11).

The habit of litigation seems to have become too deeply ingrained in the family, however, to be so easily eradicated: in July, 1682, Clarke sued his son-in-law unsuccessfully for one instalment of his compensation which he alleged had not been paid (S. F. 2997.12); and as late as 1691 we find John Clarke appointed attorney to the Suffolk County Treasurer to sue Lamb as administrator to the Buckminster estate (S. F. 2997.25).]

DAFFORN cont^a EARLE

John Dafforn Attourney of James Matthews plaint. cont^a Robert Earle prison keeper in Boston Defend^t The plaint. was nonsut^d in failure of power and costs allow^d the Defend^t Fourteen Shillings eight pence.

Execution issued. 19^o July. 1681.

[See Earle Acquitted, below, p. 1160.]

WELD cont^a HALL

Thomas Weld plaint. cont^a Richard Hall & Elizabeth his wife Executrix of John Holbrooke dece^d Defend^t The plaint. was nonsut^d in failure of process.

BURDEN cont^a LEVERETT

Stephen Burden plaint. cont^a Hudson Leverett Defend^t The plaint. withdrew his accion upon a judgem^t acknowledged.

FENO cont^a ATHERTON

John Feno plaint. cont^a Watching Atherton Defend^t in an action of debt due upon bill according to Attachment. . . . The Jury . . . found for the plaint. Five pounds six Shillings money and one pound in English goods according to bill and costs of Court granted twenty four Shillings two pence.

Execution issued. 17^o april. 1680.

SHAW cont^a NORTON

Joseph Shaw plaint. cont^a William Norton Defend^t in an accion of the case for withholding a Servant from this plaint. named John

Norton according to attachm^t. . . . The Jury . . . found for the Defend^t costs of Court. [626]

BRETNALL cont^a GATCHELL

Thomas Brentnall plaint. cont^a Joseph Gatchell Defend^t in an accion of debt of three pounds ten Shillings or thereabouts due upon account and otherwise according to attachm^t. . . . The Jury . . . found for the plaint. three pounds ten Shillings money and costs of Court allow^d thirty Six Shillings two pence.

Execution issued 2^o Feb^r 1679.

PORTER cont^a APPLETON

Abel Porter plaint. cont^a John Appleton Defend^t in an action of the case for witholding the full and just Summe of one hundred pounds of lawfull money of New-England due to this plaint. upon the Forfiture of a bond of Arbitration given under the hand and Seale of s^d Appleton dated. 6: Nov^r 1678. as shall appear with all other due damages. . . . The Jury . . . found for the plaint. One hundred pounds in money being the Forfiture of the bond & costs of Court The Defend^t appealed from this Judgem^t unto the next Court of Assistants and put in Security for prosecution thereof to effect.

[The bond of arbitration in this case has not been preserved; but the award of the arbitrators is in S. F. 1878.6. In S. F. 1878.2 is a summons to Henry Deering, John Walley, Penn Townsend, Paul Dudley, Benjamin Davis, and John Pynchon (of whom the second and third had been the arbitrators) to testify at the County Court. The account over which the disagreement arose (S. F. 1878.5) follows:

Accompt of Sales Sundry goods Ship^t aboard the Katch Dilligence Thom. Palmer Comm^a for Accompt of m^r Abel Porter is D^r to Sundry Ac^{tt} of charges. viz^t:

Virginia

1677			£ tobac
Novemb ^r 26	To. $\frac{1}{2}$ part of Victualling the Katch in Virg ^a 62 ^{li} $\frac{1}{2}$	. . .	0062 $\frac{1}{2}$
	To: $\frac{1}{2}$ part of Entring & Cleering the Katch Coll ^{rs}	. . .	0105
	To. Storehouse Roome for goods	. . . . .	0250
	To Sloop hire to Ship ^t Tobacco in Holland	. . . . .	0100
	To. Commission for Sales at 5 per ^{ctt}	. . . . .	0535
			<hr/> 1052 $\frac{1}{2}$
	To. his Acco ^t curr ^t below for Ball ^a of his Accompt Sales		
	being	. . . . .	9653
			<hr/> 10750

Virginia		P ^r Contra . . . Cr	
1677			li tobacco
Septemb ^r 22	By. Sales of .835 ^{li} Sug ^r at 3 ^{li} per ^{li}		02505
Ditto 5	By. Sales of .4. barr ^s Molasses to Sever ^{ll} men		01014
	By. Sales of .8. barr ^s Salt Sold to Sever ^{ll}		01040
Octob ^r 5	By. Sales of .12. qut ^r caske wine to sundry per ^s		03600
	By. Sales of a parcell of Ginger to sundry per ^s		00200
	By. Sales of .1. barr ^{ll} Lime juice. 300 ^{li}		00300
	By. Sales of .34. p ^r Shoes Sould to sever ^{ll}		01000
	By. Sales of .6 ^{li} $\frac{1}{2}$. powder .65 ^{li} 1 Chest: 90 ^{li}		00155
Novemb ^r 4	By. Sales of .40 $\frac{1}{2}$. gall ^o Rum at .22 ^{li} per gall ^o		00891
			10705

M^r Abel Porter his Accom^t Curr^t D^r

Virginia		
January 18	To. Tobacco Shipt onboard In ^o Holland to Ord ^r	02500
	To. Commission of .2500 ^{li} Ship't aboard	00125
	To. Debts left in Major Allerton's hands	07028
		09653

Virginia		p ^r Contra . . . Cr
Feb ^r 27	By the n ^t produce of Acc ^{tt} Sales above	09653
Erro ^{rs} Excepted this tenth day March. 1677.		

John Appleton

m^r John Appleton appeared before me and made Oath that the abovewritten Account is a true & just Account as hee hath Subscribed .this. 17. of Decemb^r 1678.

Daniel Denison

Own^d in Court by m^r Appleton 28^o Janur^o. 79.

attests J. Addington Cler.

Vera Copia . . . Js^a Addington Cler

The dispute appears to have turned chiefly upon an uninteresting technicality concerning Appleton's carrying out of the award. Appleton's Reasons of Appeal are in S. F. 1878.4. The Court of Assistants in March 1679/80 (Records, i. 154)

. . . found for the deffendant Confirmation of the former Judgment & Costs of Courts. After y^e Court had heard y^e partjes pleas [for?] a chancery of y^e bond they Judged it meet i e the bench to chancery the bond to forty five pounds mony & Costs of Courts the plaintiff taking the debts & Goods in virginea to himself y^e Costs allowed being fowe^r pound sixteene shillings and two pence.

Later in the same session the Court gave the following order (S. F. 1878.3):

Whereas in the Case betweene m^r Porter & m^r Appleton depending in the Court of assistants about the chancering of a bond of arbitration it appears (through inadvertency) that Judgment is entred contrary to the intention and order of the Court for a respit untill a further hearing, Jt is heereby ordered &

declared that the s^d Judgment be null & voyd in law & all acts since Done by either partie in prosecution of the s^d Judgment be in like manner null & voyd, untill the S^d Appleton have opportunity of further plea whereunto he shal be admitted before the end of the next Court of Assistants in September or the Court take further order heereon. Past by y^e magis^{ts} as their Act at the Court off assistants on Adjournm^t this 4 of June 1680.

Edw^d Rawson Secret

At the September Court of Assistants the case was finally settled (Records, i. 167):

The Court on Consideration of their late Act in June last Reassuming the Chanceryng of m^r Apleton^s bond declare they haue chancerjed the s^d bond to thirty fue pounds mony & m^r Apleton to haue the tobacco^s himselfe.]

HOMES cont^a HENSHAW

Joseph Homes Attourny to William Pond plaint. cont^a Daniel Henshaw Defend^t The plaint. was nonsuted upon non-appearance

TIDD cont^a SMITH

Rhoda Tidd Executrix to the Estate of Edward Porter late of Boston dece^d plaint. cont^a Thomas Smith of Charlestown Defend^t in an accion of debt of Four pounds Seven Shillings in money due by booke according to attachm^t. . . . The Jury . . . found for the Defend^t costs of Court.

SIMPSON cont^a SALTER &c^a

Loammi Simpson who married with Elizabeth Relict widdow of Richard Critchley dece^d or John Cleesby his Lawfull Attourny plaint. cont^a Jabez Salter and Nathan¹¹ Addams Junio^r Defend^t in an action of debt of Seven pounds ten Shillings in money or thereabouts remaining due to bee paid of the annuity ordered the s^d Elizabeth by the County Court sitting by Adjournm^t 23. nov^r 1675. according to attachm^t. . . . The Jury . . . found for the Defend^{ts} costs of Court.

[See case of the same name at the July session, 1679, above, p. 1040.]

ELLIS cont^a MITCHEL &c^a

Henry Ellis plaint. cont^a Thomas Mitchel & John Lux or either of them Defend^{ts} in an action of trespass upon the case for that the s^d Thomas Mitchel and John Lux did about the middle of April

last past unlawfully Seize & take away the goods appertaining to the s^d Henry Ellis from onboard his Vessell to the value of Five hundred pounds or thereabout and the s^d goods do still wrongfully detain with all other due damages. [627] . . . The Jury . . . found for the plaint. the goods Sued for and One hundred and Fifty pounds damage Or three hundred Forty three pounds eight Shillings eight pence money & costs of Court Fifty Six Shillings four pence.

Execution issued 4^o Feb^r 1679.

WILLET cont^a HUNT

James Willet plaint. cont^a Peter Hunt Defend^t The plaint. withdrew his Accion.

SAVAGE cont^a THAYER

Major Thomas Savage plaint. cont^a Richard Thayer Def^t The plaint. withdrew his Accion.

JNDICOTT cont^a KENT &c^a

John Jndicott plaint. cont^a William Kent & Richard Knight Attournys to Samuel Hawford Defend^t in an accion of debt of twenty pounds or there about in money, due to the said Jndicott from the Estate of s^d Hawford, they having promised to pay s^d Jndicott what shall appeare to bee due from s^d Estate unto him according to Attachm^t This case was Submitted by consent of partys to the Bench without a Jury who upon a full hearing of the case and consideration of the Evidence presented, gave Judgem^t for the plaint. twenty pounds Fourteen Shillings six pence money and costs of Court three pounds four Shillings.

FLOYD cont^a BAKER

John Floyd Assigne of James Bill Sen^r plaint. cont^a Thomas Baker, who married the Relict and Adm^x of John Smith Jun^r dece^d Defend^t in an accion of debt of Fifty pounds money being the Forfiture of a bond bearing date. 26^o Septemb^r 1674. under s^d Smith's hand and Seale according to attachm^t. . . . The Jury . . . found for the Defend^t costs of Court.

BROWN cont^a MARTIN

Samuel Browne plaint. cont^a Richard Martin Defend^t The plaint. was nonsuted in failure of process, having commenced the same Accion at a former Court and not comming now in way of Reveiw.

ROSE cont^a ELLIS

Roger Rose plaint. cont^a Henry Ellis Defend^t for the Summe of Forty Six pounds money due upon the Forfiture of a bond according to attachm^t. . . . The Jury . . . found for the plaint. Forty Six pounds money being the Forfiture of the bond & costs of Court: At request of the Defend^t and hearing both partys the Court chancered this Forfiture to Fourteen pounds nineteen Shillings money & costs of Court. And it is since satisfied and a discharge given by Rose of my writing to Ellis

Js^a Addington Cl^{re} [628]

GREENOUGH cont^a BARTH^o

Elizabeth Greenough Attourney to William Greenough plaint. cont^a William Bartholmew Defend^t in an accion of debt of twenty pounds money due by bill according to attachm^t. . . . The Jury . . . found for the plaint. twenty pounds money and costs of Court granted twenty three Shillings eight pence.

Execution issued 13^o feb^r 1679.

HAYWARD cont^a DANIEL

John Hayward plaint. cont^a Samuel Daniel of Yorke Defend^t for the Forfiture of a bond of One hundred and ten pounds dat^d 15. April. 1679. under the hands and Seales of s^d Daniel and Samuel Bankes according to attachm^t. . . . The Jury . . . found for the plaint. One hundred and ten pounds being the Forfiture of the bond & costs of Court: On Request of the Defend^t having heard both partys the Court chancered this forfiture to Forty Seven pounds money & costs of Court granted three pounds Seventeen Shillings eight pence.

Execution issued 24th feb^r 1679.

GREEN cont^a WHITE

Nathanael Green plaint. cont^a Magnis White Defend^t for not delivering a parcel of boards of Fifteen thousand foote w^{ch} the plaint. bought of s^d White and paid him five pounds money in part for the same; which is very much to his damage. . . . The Jury . . . found for the Defend^t costs of Court.

HALL cont^a WALDRON

Andrew Hall plaint. upon replevin cont^a Major Richard Waldron Administrato^r of the Estate of Nath^l Elkin dece^d Defend^t The Replevin and evidences in the case produced being read & committed to the Jury which are on file, The Jury . . . found for the plaint. the Barque Ann & costs of Court.

WALDRON cont^a HALL

Major Richard Waldron adm^r of the Estate of Nathanael Elkin dece^d plaint. cont^a Andrew Hall as Ma^r of the Barque Ann Defend^t The Barque being attached in this accion it was dismissed as issuing in the Replevin.

WALDRON cont^a HALL

Major Rich^d Waldron Adm^r of the Estate of Nathaniel Elkin dece^d plaint. cont^a Andrew Hall Defend^t for withholding a just and true acco^t of the Sales together with the neat produce of a parcel of goods Ship't onboard the Barque Anne and consigned to s^d Hall to value of £.63.15.9. first cost in mony in Boston as may appeare by s^d Elkins Bookes and bill of Loading under the hand of s^d Hall. dated. 29. October. 1678. according to attachm^t. . . . The Jury . . . found for the plaint. three hundred Seventy one hundred of Logwood. Or one hundred eighty five pounds ten Shillings money & costs of Court.

RAWSON cont^a LILLEY

m^r Edw^d Rawson plaint. cont^a Edw^d Lilley Defend^t for Imprisoning Robert Cooke his Servant being deliu^rd him by Execution levied on s^d Cookes person for Eighteen pounds [629] Eight Shillings four pence money &c^a according to attachm^t. . . . The Jury . . . found for the plaint. that the Defend^t do deliver him his Servant Robert

Cooke, or pay him Eighteen pounds eight Shillings four pence money and costs of Court granted twenty Seven Shillings six pence.

Execution issued for costs. 7^o feb^r 1679.

FRENCH cont^a ROSE

Stephen French plaint. cont^a Roger Rose Defend^t The plaint. withdrew his accion.

PHILLIPS cont^a LOWLE

Eleazer Phillips plaint. cont^a John Lowle and Joseph Lowle Defend^{ts} according to attachm^t The plaint. withdrew his Accion.

HALLIT cont^a ATHERTON

George Hallit plaint. cont^a Watching Atherton & Timothy Mather Defend^{ts} The plaint. withdrew his accion upon the Defend^{ts} confessing Judgem^t

GREENWOOD cont^a Pinke Industry

Nathaniel Greenwood Shipwright plaint. cont^a the Pinke Industry whereof William Harris now is or late was ma^r Defend^t for non payment of the Summe of thirty eight pounds one Shilling five pence money due to the plaint. for worke done & money expended and engaged for the necessary repaire of the s^d Pinke whils't Shee lay at the plaint^s yard as shall appeare by accompt with all damages &c^a. . . . The Jury . . . found for the plaint. thirty eight pounds five pence money and costs of Court.

HEATH cont^a HOMES

Thomas Heath plaint. cont^a Henry Homes Defend^t according to attachm^t The plaint. was nonsut^d in failure of giving Summons.

SMALLAGE cont^a WILLIAMS

William Smallage plaint. cont^a Rich^d Williams Defend^t for withhold- ing the Summe of ten pounds fourteen Shillings money due to this plaint. for worke done for s^d Williams as shall appeare according to attachm^t. . . . The Jury . . . found for the Defend^t costs of Court.

BUMSTEED cont^a HEWSON

Jeremiah Bumstead plaint. cont^a Thomas Hewson Defend^t The plaint. withdrew his Accion.

KENT &c^a cont^a JNDICOTT

William Kent and Richard Knight plaint^s cont^a John Jndicott Defend^t in an action of debt of Ten pounds eighteen Shillings and Sixpence money due by bill according to attachm^t This Accion was by consent of partys submitted to the bench without a Jury who upon a hearing and due consideration of the case gave Judgem^t for the plaint^s Ten pounds Eighteen Shillings sixpence money according to bill & costs of Court granted Forty Seven Shillings.

COOKE cont^a OLIVER

Elizabeth Cooke Exec^x and Elisha Cooke Executo^r to the last Will & testam^t of the late L^t Rich^d Cooke dece^d or either of them plaint. cont^a Cap^{tn} James Oliver Defend^t for withholding the Summe of two hundred and Four pounds ten Shillings & nine pence in money due upon the ballance of an acco^{tt} under his hand dat^d 23th July. 1679. with due damages. . . . [630] The Jury . . . found for the plaint. two hundred and Four pounds ten Shillings nine pence in money & costs of Court grant^d thirty Shillings and twopence.

Execution issued 27^o Febr^o 1679.

[The account on which this action is based (copy in S. F. 1910.11) goes back to the year 1660. It includes charges for goods advanced from Cooke's store on a rather wholesale scale, such as "100 hh^{ds} Salt at 12^s 6^d per hh^d — 62l 10s"; money lent or advanced, as "paid L^{tt} Remington for a Cowe — 4l 10s"; and the following item:

To 62 ^{li} per bill of Exchange w ^{ch} should have been p ^d in London in y ^e	£ s d
yeare .1653. w th the allowance for the Exchange at .25 ^{li} per ^c is .	77:10:—
To the Interest of Ditto from y ^e 1 ^o June 1654. to y ^e 1 ^o June 1679. being	
25 yeares at 6 ^{li} per ^c amounts to	116:05:—

Following the account is Oliver's attested acknowledgment of it:

Account^d with Elisha Cooke this. 23^o day of July. 1679 and there rests due to his Mother m^{rs} Elizabeth Cooke Executrix of the late Richard Cooke dece^d the Summe of two hundred & four pounds ten Shillings & nine pence in money. As witness my hand the day & year aboves^d

Erro^rs Excepted per James Oliver

Jn pu^sence of us.

Sarah Leverett

Ann Hubbard

Sarah Leverett made Oath that Shee was pu^sent and did see James Oliver Subscribe his hand to this Acco^t & that Shee set her hand thereto as a witness

& that Ann Hubbard did also as a witness Subscribe the same on the day of the date thereof, this was done the .26^o day of Jan^y. 1679

Before me Anthony Stoddard Commiss^r

m^{rs} Ann Hubbard tooke Oathe to Cap^{tn} Olivers Subscribing this Acc^o in as full manner as m^{rs} Leverett is Sworn 30.2:80.

attests J. Addington Cler.

Oliver's attorneys obtained a review of the case at the next County Court; but between the two actions an attempt was made to reach a settlement:

S. F. 1910.16

James Allen aged 47. yeares or thereabout testifieth & Saith. — That Cap^t James Oliver did sometime in February last past come to the Deponent and desire him to heare the grounds of the difference between him & D^r Cooke about a debt owing to D^r Cookes Father in order to the issuing of s^d difference of which they had a tryall the last County Court here at Boston, having severall times discoursed each of them about it and perswaded s^d m^r Cooke and his Mother to accept of a Summe which Cap^t Oliver did assure the Deponent hee would willingly pay to them; the s^d Oliver did afterwards desire that m^r Nowell & his Kinsman m^r John Oliver might meete at the Deponents house to debate what was the true principle debt, who did there accordingly meete and after much discourse of a debt of Sixty two pounds due by bill of Exchange in London, the Deponent seriously urging Cap^t Oliver to act the part of an honest man and say whither this was a debt yet unpaid or not hee answered to this effect, that hee durs't not wrong his conscience, but did acknowledge it was yet unpaid and therefore due from him either to m^{rs} Cooke as the Reliet and Executrix to L^{tt} Cooke dece^d or m^r Daniel Hoare, it being originally a debt due to them in partnership, and if m^r Cooke and his mother would discharge him from the s^d Hoare as his Father had done hee would pay it to him, w^{ch} D^r Cooke told him hee would do: This Depon^t further Saith that s^d Cap^{tn} Oliver did twice with him agree upon a Summe that hee would presently pay if s^d Cooke would accept it w^{ch} this Deponent did perswade s^d m^{rs} Cooke & her Son D^r Cooke for peace sake to accept; Which Agreement (as afterwards J understood) was not performed by Cap^{tn} Oliver, and that s^d Oliver did at severall other times of his own accord acknowledge that it was a true debt, and that hee was agreived only at the Interest. The acknowledgement of the debt in the house of the depone^t was in pu^sence of m^r John Oliver and L^{tt} Reynolds & further Saith not.

Taken upon Oath the .29th of .2th m^o: 1680 before me Anthony Stoddard Commiss^r

Ownd in Court upon former Oath .30th April 1680.

attests Js^a Addington Cler

Copia Vera. per Js^a Addington Cler

S. F. 1910.13

John Walley aged about thirty five yeares testifies that severall times discourseing with Doctor Cooke about the Action and Acco^{tt} that was depending between Cap^{tn} Oliver and him, hee hath heard s^d Cooke owne that the Summe that had been due upon the bill of Exchange on the partable Account Hoare

suings Cap^{tn} Oliver for the money, y^t upon Cap^t Oliver Request to cleare him of Hoare, his Father gave him a receipt on the partable Acco^{tt} & made Cap^{tn} Oliver D^r to his proper Acco^{tt} which in Cap^{tn} Oliver behalfe wee urged hee would shew his Bookes to make y^t appeare, but hee refused.

John Oliver testifieth to the truth of the abovewritten

Sworn in Court by both Depon^{ts} 30th april. 1680.

Js^a Addington Cler

Vera Copia attest^r Js^a Addington Cler.

John Hubbard and Major William Phillips testified (S. F. 1910.15) that Oliver had asserted "he objected against nothing in the Accompt^t but the Interest."

In S. F. 1910.1 is a copy of the attachment against Oliver in the original action. The return, with a later note by the clerk, is worded as follows:

Novemb^r 25th 1679.

J attached the ground of Cap^t James Oliver on which his house did stand before the last fire in Boston with all the rest of his Land thereunto adjoining.

Return Waite Marshall

m^r Cooke made Oath in Court 30th Janur^o 1679. that hee deliurrd a Summons to Cap^{tn} Oliver

attests J. Addington C.

This document furnished one of the arguments for the following Declaration (S. F. 1910.6), presented to the County Court by Oliver's attorneys at the review in April, 1680:

Wee humbly Offer that the s^d Cap^{tn} Olivers not so well minding or understanding his own concern nor seeing the snare that Doctor Cooke had laid to get his Estate from him & his secret manageing this matter as much as might bee that the s^d Cap^t Olivers Freinds might not appeare to defend his cause and discover s^d Cookes unfaire if not unjust dealing therein was the Reason that no Defend^t appeared in the last County Court, therefore a Reveiw being of the nature of a writt of Error, wee hope that if wee make it appear now, that there was no ground for the proceeding of the case at that Court, then wee shall obtain Judgem^t for o^r full damages now.

1^o Wee Say that there was no Defend^t appeared to owne nor any testimony that the Summons was served or given to s^d Oliver Six dayes before the Court (as the Law provides) & had Doctor Cooke Sworne as to the time, which hee did not or that the Summons hee deliurrd related to this, yet wee leave it with the Honord Court to consider whither a party Swearing in that case bee legall proove where the Defend^t is not there to owne or deny.

2^o Wee Say the Officer in his Return Saith that hee attached y^e ground of Cap^{tn} Oliver but doth not Say to respond that Action therefore conceive that the case should not have proceeded unless there had been something attached to answer that action, for the attachm^t the very words of it are to attach y^e goods or Estate of &c^a to answer the compl^t &c^a but it did not appeare that this Estate was attached to answer the Action according to the tenour of that attachm^t. See the marshalls Return.

3^o Wee say the partys are not understood if they are joint Executo^{rs} then they should jointly Sue and then what is due to the Estate is due to them jointly & so not at their Liberty to Sue severally, now by will they are joint Executo^{rs} for it saith J appoint Eliz: Cooke Executrix and Elisha Cooke Executo^r but not Eliza: Cooke or Elisha Cooke Executrix or Executo^r &c^a. But as to the Action they or either of them by Attachm^t Sue for £.204:10:9^d due upon ballance of Acco^{tt} under Cap^{tn} Olivers hand but say not whither it is for so much due to one of them or whither due to both of them or if but to one to which of them, hee Saith for £.204:10:9^d due but not to whome, and in the attachm^t hee refers to a writing dat^d 23^d July. 1679. now that writing if it hath Cap^t Olivers hand to it, it is with an exception or reservation, all hee Saith is no more then that it is true, that there is so much due if the Acco^{tt} bee not false, which we Suppose will amount to as much as comes to nothing, for let the Erro^{rs} bee discounted which are excepted and there will appeare very little if anything due to the now Defend^t or Defend^{ts}. That writing saith so much due to Eliz: Cooke, now the action and that writing do not agree, for if it were due to her then not to her or him or either of them, they Say in the Attachm^t for so much upon ballance now there is not one such word in that writing, and it argues that they were not agreed nor come to any conclusion or ballance by his setting his hand to it with that Reservation Erro^{rs} Excepted which was never seen to a writing of that nature, the testimony in Court was single, and onely sworn that Shee saw Cap^t Oliver Set his hand to an Acco^{tt} but not that hee set his hand to a writing containing such a Summe as the ballance neither was the Deponent present in Court to owne the Deposition as y^e Law requires: As for the Acco^{tt} it will prove itselfe Erronious Jf the Honord Court & Jury will please to take notice that the first Article of it Js for ballance then made up (w^{ch} was y^e 4th of 8^{ber} 1660). 23^{li} 00:07^d then due to L^{tt} Rich^d Cooke, and this pretended bill of Exchange was to bee paid in Ann^o 1653 and therefore must needs bee included in the ballance of 23^{li}00:07^½ due in anno: 1660: being Seven yeares before. . . .

4. Error. And as for .194^{li} of the Summe recovered it is not onely included in the ballance of .23:00:07^½ (as wee Say before) but hee makes it rise from a pretended bill of Exchange which should have been paid in England but never Saith who it was drawn by who it was drawn upon or who payable to, now wee desire that hee should shew some probability or appearance that there ever was such a bill of Exchange for 62^{li} To produce such an one wee know hee cannot wee have often urged him to shew his Bookes but judge hee dares not; but supposeing Cap^{tn} Oliver had given such or any other bills of Exch^a they are to bee accounted p^d unless hee produce a protest under a publique Notary's hand according to the custom of Merchants, and if hee saith hee hath any bill of Exch^a from Cap^t Oliver let him produce it and make it appeare what the Summe was and wee Judge wee are capable to prove it p^d As for severall other Articles in the Acco^{tt} Cap^{tn} Oliver knows nothing of them viz^t in perticular for Interest for m^r Snelling and Rent for m^r Dexter but wee desire that the Honrd Court would cause m^r Cooke to produce his Bookes to compare with the Acco^{tt} and then wee doubt not but his Bookes will prove more Erro^{rs} in the Acco^{tt} then wee are able to doe. And to conclude supposeing the .62^{li} per bill of Exchange had been due upon which hee charges one hundred & odde pounds for interest yet o^r Law title usury Saith that no usury shalbee allowed contrary to the law of God, and how well m^r Cooke hath attended the law of God wee leave to the Honord Court & Country

to consider w^{ch} Saith in .25. Leviticus. 35. 36. and if thy Brother bee waxen poore and fal'n in decay with thee then thou shal't releive him yea though hee bee a Stranger or a Sojourner that hee may live wth thee take thou no usury of him or Increase but feare thy God that thy Brother may live with thee: wee shall adde no more at pu'sent untill wee see further occasion but Rest.

yo^r Hono^{rs} humble Servants

John Oliver Nath^l Oliver

Nath^l Williams

Boston Ap^l y^e 28th 1680.

Vera Copia attest^r J. Addington Cler.

S. F. 1910.9

An Answer to Cap^{tn} Oliver's Attournys' Declaration

Jn their preface they do very unworthily charge the Defend^t with laying a Snare &c^a and with unfaire & unjust dealing in this matter but mention no particular for demonstration thereof; in which they shew their Machivilian policy to reproach & cast asperitions at any rate, to which J shall rather speake something then write if the honord Court please to give me leave.

1. And as to their pleas J Answer. 1. To the first that y^e Defend^t made Oath that hee deliurd a Summons to Cap^{tn} Oliver according to the tenor of the attachm^t upon the wednesday before the Court w^{ch} was judged legall prooffe.

2. To the Second. That the Officer made a Return of what hee attached and the process declares for what.

3. To the third. The Executo^r appeared in Court personally and the Executrix by her Letter attorny to the Executo^r which Letter the Bench allowed and deliurd again to the Executo^r and said it need not bee kept in Court and that either had sufficient power to Sue. . . .

And to their pretended Erro^{rs} in the Acco^t J Answer

1. That the .62^{li} due in London was upon bill Exchange & not charged to Cap^t Oliver's particular Acco^{tt} in the Booke untill the yeare .1662. and therefore could not bee included in the ballance of an Acco^{tt} made up the :4: October .1660. and therefore no Error. . . .

3. What need is there of declaring by whome these bills were drawn upon whome or to whom payable & of produceing protests &c^a wⁿ Cap^t Oliver hath from time to time for so many yeers owned the debt and doth still as appeares per his Subscribing the Acco^t & y^e many other testimonys in the case.

Jn their conclusion they do as at the begining take to themselves liberty to revile and reproach, as if so solemn an Assembly as a Court of Judicature were a place licensed for men to vilify scandalize & calumniate at their pleasure as they do not onely the Defendant but his deceased Father and that without the least shadow of reason in speaking of his Bookes so reproachfully as they do, w^{ch} neither of them have ever seen though Cap^t Oliver hath often and alwaies said the Acco^t was right & just the law they quote (w^{ch} the Generall Court therein saith is agreeable to the word of God) allows .8. per^c per annum & for bills of Exchange more, and it is the practice of our Courts to allow for money due in England by bills of Exchange or otherwayes 25 per^c for the Exchange of money w^{ch} is but the bare difference between our money & theirs, and also .8. per^c per annum upon the whole, but Cap^{tn} Oliver is charged with no interest at all for the first yeare and afterwards but 6. per^c w^{ch} hee was then freely willing to allow;

The Defend^{ts} were so far from oppressing Cap^t Oliver as that they were willing (as full Satisfaction of the debt) to accept of what Cap^t Oliver was freely willing to give & would have abated considerably of that too, w^{ch} issue these Gent^{rs} his pretended Freinds with great endeavo^{rs} prevented which concessions not being complied with ought not now to abate of the just & legall right of the Defend^{ts} the Attournys' whole designe in this matter hath been to calumniate the Defend^t & darken & perplex the case with impertinent pleas and papers to mislead the Jury & keepe Cap^t Oliver out of Court least hee should speake truth there as hee hath done elsewhere: But the debt for which the Judgem^t was granted the last Court being sufficiently proved and by Cap^t Oliver owned, though its said hee Signed the Acco^t with the reservation of Erro^{rs} excepted w^{ch} is a thing most frequent in Signing of Acco^{ts} which was ever hitherto understood to bee meant Erro^{rs} onely in casting: The Defend^{ts} hope this Honord Court & Jury will see sufficient reason to grant them their costs & Subscribe

Yo^r Hono^{rs} humble Servant

Elisha Cooke in behalfe of his mother

Elizabeth Cooke & himselfe

Vera Copia attest^r Js^a Addington Cler.

Despite the obvious sophistry of most of Oliver's attorneys' arguments, the jury found for him 193*l* 15*s* money and costs of court, in partial restoration of what had been taken from him by execution after the original action. Cooke appealed; his Reasons are no longer to be found, but a lengthy answer by Oliver's attorneys is in S. F. 1910.7, reproducing to a considerable degree the contents of the previous "Declaration." A few sections of this document are of some interest:

2ly Their Second is a false Assertion: for Capt. Oliver never acknowledged Soe much Due to the Appell^{ts} & whereas it is Said, that Cap^t Oliver's Subscription is as a Specialty, wee Beleive that, neither D^r Cooke, nor any man else, Ever Saw Such a Specialty as that is, & if any man give a Bill under his hand, wth that reservation (Errors Excepted) though it be Imprudence, yet Such a Specialty (though Sollemnly Signed before two wittnesses) bindes the Signer to pay no more then what shall appeare to be due, when the Errors are discounted, against w^{ch} he excepted: & if men in a Secret & Clandestine way shall be drawne in & perswaded to sett their hands to a paper, w^{ch} is deliberately & designedly made to get away their Estates from them, & Such Actions shall passe for bindeing Conclusions, how shall Any man keep his just right? . . . Jf the Acc^{ot} had bin Signed by Capt. Oliver, where m^r Cooke had bin y^e Debtor, then it had bin propper for Capt Oliver to have signed his Acc^{ot} wth (Errors Excepted) & then It is Confest it might have bin taken only for Errors in casting but this is just the Contrary & Capt Oliver, when he was drawne in & none of his freinds present to Informe him better, if he must Signe to Satisfye m^r Cookes Mother, as he pretended he had good reason to Except against m^r Cookes Errors, w^{ch} now appeare to be many & great: And when he Saw that, that Stratagem would not doe, because of those words (Errors Excepted) he tenders to Sware that Capt. Oliver owned the Jnterest & was willing to allowe itt; & as m^r Cooke said that Courts of Judicature were not places for men to vilify one another in, neither are they

Places for men to Sware other men into their debts: & the Hon^d County Court saw Just Reason to deny D^r Cooke the takeing of Such an Oath, the Contrary Oath being tendered by Capt. Oliver at the same time.

At the hearing of the appeal at the Court of Assistants (Records, i. 165-166)

. . . the Jury Brought in their virdict they found for the Deffendant^s Confirmation of the forme^r Judgment & Costs of Courts. The plaintiff declard he Attainted the Jury for erro^s or mistakes & in open Court Elisha Cooke in behalfe of his mother & for himself wth Isaack Addington his suerty Acknowledged Jointly & seuerally themselves &c bound in tenn pounds to the Trespere^r of the Country on Condition that the said Elisha Cooke should prosecute his Attaint of the Jury as to matter of Erro^r at the next Court of Assistants to effect. E R S

The new hearing took place on 1 March, 1680/81 (Records, i. 179):

m^{rs} Elizabeth Cooke executrix & m^r Elisha Cooke execcuto^r plaintiffe^s in an Action of Appeale on Attaint of the Jury whereof m^r Holliok was foreman. Aagainst Cap^t James olliuer deffendant: from the virdict of the Jury at the last Court of Assistants After the Attachment the Courts Judgment & evidences in the Case produced were read Comitted to the Jury & are remaynng on file The Jury brought in their virdict i e in the said Case depending between the s^d m^{rs} Eliza: Cook & m^r Elisha Cooke plaintiff and the Attorney^s of Cap^{tn} James olliuer deffendants the Jury finds for the plaintiff seventy two pounds fiueteene shillings and nine pence money & Costs of Courts seuen pounds fowe^rteen shillings & 4^d Reuersing the former Judgment.]

SALTER cont^a CALLEY

Cap^{tn} Richard Salter plaint. cont^a Joseph Calley Defend^t for not paying the Summe of Forty Six pounds fourteen Shillings eight pence Sterling due upon the Forfiture of a bond according to attachm^t. . . . The Jury . . . found for the plaint. Forty Six pounds fourteen Shillings eight pence money being the Forfiture of the bond and costs of Court granted thirty two Shillings eightpence

Execution issued. 4^o Feb^r 1679.

HUDSON acquitt^d

John Hudson upon due proclamation made was acquitted from his bond for appearance at this Court respecting the charge of Mary Mitchelson.

Order to the Treasuro^r

Ordered that the County Treasuro^r pay to Cap^{tn} Daniel Fisher ten Shillings money for his disburs't on a County Bridge.

TAILER &c^a to DAVIE

m^r William Tailer Cap^{tn} Elisha Hutchinson and John Scarlett Adm^{rs} to the Estate of Free Grace Bendall dece^d appearing in Court, confessed Judgem^t against the s^d Estate in their hands unto Humphry Davie Esq^r for Five and twenty pounds six Shillings. 7^d money due upon ball^a of Acco^t

Execution issued. 17^o Janur^o 1680.

Clerke of y^e Writts for Sherborne

Edward West of Sherborne being nominated by the Town is approved of and confirmed by the Court to bee Clerke of the Writts for s^d place.

Freemen Sworn

Samuel Guild, Tho: Fisher Joseph Wight & John Battelle of Dedham, Eleazer Addams of Medfeild, m^r Tho: Weld Junio^r & Joseph Lyon of Roxbury, Benjamin Lincoln, & John Fering of Hingham, Jabez Totman of Roxbury; Jonas Clarke Junio^r Tho: Baker, Tho: Walter Obadiah Gill, and John Maryon junio^r of Boston tooke the Oath of Freedom.

LEVERETT to BURDEN

Hudson Leverett appearing in Court confessed Judgem^t against his Estate or person unto Stephen Burden for Five pounds Seventeen Shillings in money according to bond on file, and eleven Shillings six pence money charges of Sute in all Six pounds eight shillings six-pence.

Execution issued. 2^d Feb^r 1679.

Dedham Commission^{rs}

Cap^{tn} Daniel Fisher, Ensigne Thomas Fuller and Serj^t Richard Ellice of Dedham are approved of as Commission^{rs} to end small causes in the Town of Dedham for the year insuing.

TOWNSEND to PORTER

Peter Townsend appearing before Simon Bradstreet Esq^r Gov^r and Joseph Dudley Esq^r Assist. 27^o January. 1679. confessed Judgem^t

against his Estate and person unto Joseph Porter for five pounds three Shillings money, by so much remaining due upon his bill on file for £.5:13.0.

Js^a Addington C.

Execution issued. 9^o June. 1680.

ATHERTON to HALLITT

Watching Atherton and Timothy Mather appearing in Court confes't Judgem^t against their Estates and persons jointly [631] and severally unto George Hallet for Forty Six pounds to bee paid in money, in full of a bond on file with charges.

Execution issued. 30th Janur^o 1679.

GARDNERS discharge

Peter Gardner of Roxbury is discharged from attending upon ordinary traynings upon his keeping of two fire armes well fix't alwaies liable to the Clerk's veiw, and in readiness for the Country's Service.

FERING fin^d 10^s

John Fering of Hingham for neglect of his duty in not attending the Service of the Jury of tryals but occasioning the Court to waite through his meanes, was fin^d twenty Shillings in money to the County, afterwards upon his petition one halfe thereof was remitt^d

Committee to set out WADSWORTH'S thirds

L^t Edmond Quinsey, Quarter master Tho: Swift & Thomas Holman are appointed a Committee to set out unto Abigail Relict Widdow of Cap^{tn} Samuel Wadsworth sometime of milton dece^d of the Estate left by s^d Wadsworth in Lands such a proportion as to make up, what Shee hath already received from s^d Estate in movables and Salt Marish (amounting by her own acco^t to One hundred and thirteen pounds two Shillings and six pence) the full Summe assigned unto her by the County Court upon the division of s^d Estate, to do it so as may least prejudice the Estate, and to make Return to the Court.

HOLLIS Fin^d 20^s

John Hollis convicted by his own confession in Court of affronting and strikeing of Thomas Drake Constable in the Execution of his Office, Sentenc^d to pay twenty Shillings money fine to the County, twenty Shillings money to Thomas Drake, with charges of prosecution and fees of Court standing committed &c^a

RICHARDS^a Fin^d £4.

John Richardson of Meadfeild convicted by his own confession in Court of his committing Fornication with Rebecca Clarke now his wife, Sentenc^d to pay for himselfe and wife Forty Shillings apeice in money fine to the County and fees of Court standing committ^d &c^a

DAVIS to SHEAFE

Joseph Davis of Boston Feltmaker appearing before W^m Stoughton Esq^r and Joseph Dudley Esq^r Assist^s 31^o Janur^o 1679. confessed Judgem^t against his Estate and person unto Sampson Sheafe Assigne of m^r Thomas Thacher for Fourteen pounds in money due according to bond on file.

Js^a Addington Cler.

LEVERETT Fin^d 40^s

Hudson Leverett bound over to this Court to answer the complaint of Thomas Heath and Mary his wife for unduely taking out of m^r Paiges yard certain parcels of Linning belonging unto her; claimed the benefit of a Jury; which was granted, and the case committed unto them, who brought in their Verdict they found him guilty: The Court Sentenced him to pay Forty Shillings money fine to the County, ten pounds money to Tho: Heath being the remainder of treble damages (the goods in Court to bee return^d) and charges of prosecution and fees of Court standing committ^d &c^a [632]

HANNAH Negro Sent^a

Hannah a negro woman being prosecuted by m^r Daniel Stone for Stealing a box of Chyrurgions Instrum^{ts} from him which hee affirmeth cost Seven pounds in England, part of which Instrum^{ts} challenged by him, Shee owneth Shee had Saying they were given to her by a

man at m^r Lakes gate, which Shee disposed of to Mary Pittum: The Court upon hearing and consideration of the case Sentence the s^d Hannah to bee whip't with ten Stripes and to pay unto m^r Stone ten pounds in money, and to pay fees of Court standing committ^d &c^a 12^o Feb^r The s^d Hannah appealed from this Sentence unto the next Court of Assist^s and John Somes in behalfe of said Hannah as principall in twenty pounds and Joseph Williams and Peter Odlin Sureties in ten pounds ap^s acknowledged themselves respectiue bound . . . for prosecution of s^d Appeale to effect, and that in the meane time s^d Hannah shalbee of good behaviour.

[See also the next case below.

S. F. 1832.2

To the Keeper of the Prison at Boston.

J have sent you herewith the body of Hannah a Neg^r womⁿ convict for stealing a Chyrurgions box and Instrum^{ts} to a considerable value Requiring yo^u in his Maj^{ties} name to receive her into yo^r prison and her safely keepe till Shee bee thence deliur^d by order of Law, and hereof yo^w are not to faile Dated .13. Decem^r .79.

S. Bradstreet Gov^r

Vera Copia Attest^r Js^a Addington Cler

Things not yet found w^{ch} belong to the Box.

A large pair of Silver Forceps

A Silver Fleme

A Silver Spatula

A Speculum Oris broken & lost.

A Probe

An Incision Knife

Vera Copia .J. Addington Cler

S. F. 1832.1

To the Honored County Court now sitting by Adjournm^t in Boston.

The humble Petition of Hannah Negro Sheweth that whereas a matter of Complaint hath been brought and my Selfe impleaded upon it before yo^r Hono^{rs} So that a Sentence was procured against me to bee whip't with ten Stripes and to pay unto m^r Stone £:10: in m^o and to pay fees of Court standing committed &c^a Jn obedience to which Sentence your Hono^{rs} poor Petitioner has received the corporall punishment, but being dissatisfied in the other part of the Sentence do hereby humbly Petition for the pu^viledge of an Appeale from it, legall caution by Security being given, which J trust wilbee beneficiall to yo^r poor Orator, and give me cause to pray for yo^r Hono^{rs}

the marke of
Hannah // Negro

This petition granted. J: Addington C

Vera Copia Attest^r Js^a Addington Cler.

S. F. 1832.3

Hannah Negro womans Reasons of appeal to the Honoured Court of assistence from the Last County Court held in boston and by the same sentenced to be whipt with ten strips & to pay unto m^r stone ten pounds in mony: & to pay fees of Court standing Committed: &c: shee appealed from y^e Latar part of this sentenc to this Court for thes Reasons folowing: the Honoured Court & Jury may pleas to take notis: of y^e Honourd Gouverno^{rs} warent for my Commitment which hath two parts: 1st J haue heer with sent you: the body of hannah a negro woman: Conuict for stealing a Chyrurgions box, & instruments: to a Considarabel ualue: itt is neithar sayd whose box itt was: when: stolen nor party Complayning: nor in ordar to farthar tryall, but Conuict 2^dly: har safely to keep tell shee bee thence deliurd by ordar of Law: how far m^r Stone is Concerned in this Cau[se or] y^e fact Legely proued: J Leaue to this honoured Court & Jury to Judge as not willing to [wade to far being a negro] woman & undarstanding y^t a: word to the wise is sofish[ent]:

1st Daniel stone doth but say the plaster box stoln: from him Cost 7[l] in London which is but his owne asarshon with out any proof there: fore y^e worth of it is not: Euidnt though hee had lost such a box.

2^d thar was noe such box found with mee: nor Euar had J anny such thing: but Joseph Colloe owned that hee had the box: of whome sayd stone Receu'd satesfaction: thar fore ought not to Chaleng itt of mee who did niuar see itt:

3^d all the things that J had J gaue m^r stone and y^e Court an acompt how J Came by them and hee had them again & twenty shilings in mony of Mary Pittum: which [is] a sofishtent Compensation in that matar: if thay [were his as] J humbly Conceue:

the sentence of the strips J Receued in full tale: and imprisonment from the .13th of desember tel the 13th of february being two months in a Could prison seprated from: my husband: & my m^[rs] busnes to which J am obliged and ought to sarue a Cording to y^e Law of God & y^e King & this Juresdiction as y^e Law titell buglery theft page :13: section 2^d in thes wo[rds] if thay bee saruants or Children thus tra[n]sgressing & [thar] m^r or parente will not pay thar fines thay shall be openly punished. to which J Refer: J nethar owe m^r stone ten pound in mony nor haue J itt to pay Jf J did: and by Law my husband ought to pay itt but hee hath itt not: : and my mastar doth deny to pay itt (hee not being in the [obliterated] & Jf hee should itt might: in Correg Euell minded & Couetous parsons: to seduce and by Law [obliterated] to: them selfs: the best mans slaues in new england, by secretly giuing them sum thing of [obliterated]hen prosecuting them for theft: in which snare of Receuing J haue bin Caught (whethar of [obliterated]nnar or othar J know not:) but J hope that my all Redy Receued punishment J hauing noth[obliterated]o pay [off] the things J had being all Retorned may sofise: & that J may Return to my own m^r a gayn: [obliterated]tt shall ingaydg mee to be more Carfull how J doe any thing to displeas your honours:

the marke of
the mark of hannah // negro

These Reasons Rec^d 26 feb^r [1679]

per J: Addington Cler

S. F. 1832.7

Daniell Stone his answer to Hannah Negro her Reasons of Appeale from the Sentence of the honord Countey Court &c

As concerning what she saith relateing to the honord Governo's Warrant as she Calls it, I accompt not my selfe concerned to make any answer,

1. As to her First reason vi^{zt} that it is only my assertion that the plaister box Cost Seven pounds in London, I Answer, I proved that it was my box, and that it was stolne by her, is most evident, in that the vtensills therein, were found with her, or disposed of by her, as she her selfe owned, and I proferd my oath to the Cost of it

2^d That there is noe such box Found with her &c I answer, That a considerable part of the appurtenances, belonging to the sayd box were found with Mary Pittam where she had disposed of them, and although Joseph Calloe tooke up the box in the water, where it is supposed she threw it from the wharfe neere her masters house, that it might not discover her theft, yet part of the lock of the sayd box was found amongst those things aforesd w^{ch} she disposed of as she owned, which evidently shoves that she stole the box & broke it open

3^d That sayd Stone receiv^d twenty shillings of mary Pittam &c I answer That Could not be judged to be a full compensation For goods stoln from mee of Seven pounds, vallue in England,

4. Lastly. That the Law page 13 saith servants or Children, thus transgressing &c shall be whipped if their masters refuse to pay their Fines &c I answer, that her whipping Can only be meant to be in satisfaction to the Countrey for the Crime, but not in satisfaction to the party damnified by the theft, For then how soone may any man be undone by the unfaithfulnesse of his Neighbours servants, stealing never soe great a vallue, But it hath beene the practisse in this Countrey, & approved by Authority to sell servants to satisfy Judgments of this nature, when their Masters have refused to satisfy the same the looser being utterly incapacitated to have his losse repaired otherwise, the p^rmises Considered I hope this honord Court will see just Cause to Confirme the Former sentence, wth just Costs.

J subscrib myselfe yo^r worships humble sarvant Daniell Stone

The references to Joseph Calloe in the foregoing documents become more intelligible in the light of two items from among those copied in S. F. 1832.6:

Joseph Calloe belonging to the Ship Daniel & Robert Abraham Knop Commander hath likewise bound himselfe in the Some of 5^{li} for his personall appearance at the s^d Court to answer the complaint of s^d Stone for breaking the s^d box and takeing off the Silver &c. 13.10.79.

S: Bradstreet Go^r

Calloe Being called Owned that hee tooke up the box between the Wharfes floating upon the water and broke it & tooke off the Silver, being ask't the reason why hee had not cryed it, made answer it was not usuall in their Country to cry any thing taken up floating on the water or cast up on the Shoare, the Silver being returned, hee was acquitted.

J: Addington C

Vera Copia . . . Js^a Addington Cler

In S. F. 1832.4 is the verdict of the jury on the appeal heard at the Court of Assistants:

In the Case of Hannah Negro, Plantife on appeal from the Sentence of the last County Cort held att Boston, the Jury finds the s^d Hannah Negro Gilty of matter of fact then charged upon her and cost of corts
march: 2^d 16⁷⁹₈₀]

PITTUM Fin^d 20^s

Mary Pittum prosecuted by m^r Daniel Stone for receiving severall Silver Instrum^{ts} of Hannah a Negro w^{ch} were stol'n from him, the s^d Instrum^{ts} being found with her, Shee owned Shee rec^d them of the Negro: Sentenc^d to pay twenty shillings money fine to the County, twenty Shillings money to m^r Daniel Stone and fees of Court Standing committ^d &c^a

[See the case above. In S. F. 1832.6 are copies of a bond by John Pittam for his appearance and that of his wife at the County Court to answer Daniel Stone's complaint, and of a bond by Stone for his appearance to prosecute the complaint.]

HULL Sent^a

James Hull complained of by m^r Thomas Martin marrin^r for Stealing from him &c^a sundry goods, changing of his name & giving out many threatning speeches against the Town of Boston, and that hee came privately onboard his Vessell at Barbados, and came off s^d Jsland without a ticket: upon a full hearing, of the case: The Court Sentenced s^d Hull to bee whip't with twenty Stripes, and to pay unto the s^d Martin or his order &c^a Five pounds money damage, and to pay fees of Court standing committ^d &c^a And grant liberty unto the s^d Martin or his order any time within two months to take him out of prison, paying his fees, and to Ship him off to Barbados.

EDGERTON Sent^a

John Edgerton prosecuted by Nicholas Wilmot for Stealing money from him to value of thirty Five Shillings: Upon hearing of the case, The Court Sentence him to pay unto Nicholas Wilmot Five pounds five Shillings money, being treble damages according to Law (Wilmot defalkeing what part thereof hee hath received again) and fees of Court standing committ^d &c^a

[See note to Davis Sentenced, above, p. 1098, and below, Order about Edgerton and Davis, p. 1161.]

MARTIN Sent^d

Jane Martin convicted by her own confession in Court of Stealing Four Shillings money from her ma^r Nichols Wilmot, Sentenc^d to pay unto her s^d Ma^r twelve Shillings money being. 3^{b^{le}} damages according to Law, and fees of Court standing committ^d &c^a [633]

SMITH Fin^d £.10.

John Smith of Medfeild convicted by his own acknowledgement of going away from his wife, and accompanying with Patience Rawlins, and declaring that Shee was his wife, Sentenced to bee whip't with thirty Stripes, and to pay ten pounds money fine to the County and fees of Court standing committ^d &c^a

RAWLINS Fin^d 50^s

Patience Rawlins convicted by her own confession in Court of going away with Jn^o Smith and committing uncleanness with him, Sentenced to bee whip't with Fifteen Stripes and to pay Fifty Shillings money fine to the County and fees of Court standing committ^d &c^a

SMITH Sent^a

Nicholas Smith Servant to Roger Billing prosecut^d by his ma^r for stealing sundry goods and money from him & counselling his fellow Servants to run away: Sentenc^d to bee whip't with ten Stripes, and to pay unto Roger Billing ten pounds money and fees of Court standing committed &c^a

The Court Adjourned to. 12^o Feb^r 1679.

12^o Feb^r 1679.@

The Court met by Adjournm^t

Present

S: BRADSTREET Esq^r Gov^r

EDW^d TYNG Esq^r Asst

W^m STOUGHTON Esq^r }

JOS: DUDLEY Esq^r }

HUMP^r DAVIE Esq^r }

Ass^{ts}

[CLEESBY's Discharge]

John Cleesby of Boston Taylor by reason of Lameness is freely discharged from Traynings and military Watches, hee keeping Armes according to Law.

Weymouth Commission^{rs}

Cap^{tn} William Torrey, L^t John Holbrooke and Serj^t Samuel White are appointed Commission^{rs} to end small causes in the Town of Waymouth for the year insuing.

Freemen

The Hon^{ble} George Russell Esq^r and m^r Joseph Pynchon tooke the Oath of Freedom of this Colony.

PRESTON his Licence

Daniel Preston Sen^r of Dorchester is Licensed to retaile Cider for one year next comming and himselfe and Serj^t Enoch Wiswall were respectiuely bound to the Treasuro^r in the Summe of ten pounds, not to transgress the Laws or his Licence.

Dorchester Select men under a penalty

It's ordered that the Select men of Dorchester do nominate and present some fit person unto the next County Court for their approbation to keepe a house for publique entertainm^t in their Town under the penalty of five pounds money to bee forfeit^d by the Select men in case of neglect of this order. [634]

HARRIS his License

William Harris of Boston Merch^t is Licensed to retaile wines out of dores for one year next comming, and himselfe and John Winslow were respectiuely bound in the Summe of twenty pounds to the Treasuro^r that hee should not transgress the Laws or Licence

CURTIS Sent^a

Henry Curtis prosecuted by Thomas Heath for that the s^d Curtis being entrusted by him as master of his Boate, sold severall of his goods without his knowledge or order without rendring the pay to him but converting of it to his own use, Also stole from him a parcel of boards and Sold them for thirteen Shillings six pence, Sentenced to pay unto s^d Heath treble damages according to Law for the boards, and the value of such other goods as hee acknowledgeth to have Sold according to the Acco^t given in, and fees of Court and prison standing committ^d &c^a

GEORGE Acquitt^d

Elizabeth George presented for keeping a publique house contrary to Law: The presentm^t fell for want of prooffe.

EARLE Acquitt^d

Robert Earle prison keeper being complained of by John Dafforne Attourney of James Matthews of New-yorke for dismissing of John Keene his prisoner upon Execution, without Satisfaction made: Upon a full hearing of both partys The Court acquit the s^d Earle from being criminall in y^e case

[See Keen v. Matthews, above, p. 1078, and Dafforn v. Earle, above, p. 1136. After a summer's rest from the vicissitudes of his litigation with Keen, Dafforn resumed activities at the October session of the County Court, when as attorney to Matthews he sued Earle for releasing "his prisoner John Keen committed by Execution before the plaint. was Satisfied according to the contents of s^d Execution." (Copy of record in S. F. 1930.) The jury found for the plaintiff 27*l* 18*s* 9*d* damages and 32*s* 6*d* costs. Thereupon "Joseph Homes Attourney or Substitute of John Dafforn engaged in open Court that upon the Defend^{ts} Satisfying him the above Judgement that hee would stand in roome of James Matthews upon a reveiw of the Original merit of the case with John Keen at the next County Court in Boston and bound himselfe to s^d Keen in a bond of thirty pounds money to bee liable to arrest and to abide the order of s^d Court therein."

Papers for the review of the case, with which the Court must by this time have been tolerably familiar in all its details, are in S. F. 2052. The judgment, given at the January session, 1680/81, of the County Court, allowed Keen, the plaintiff, 26*l* 5*s* 9*d* and costs. Homes appealed; the Court of Assistants (Records, i. 181) confirmed the judgment of the lower court, but required Keen to pay the appellant 35*s* in money and costs of courts.]

WILLISTONE Sent^a

John Willistone convict^d by his own confession in Court of Stealing a horse from Rob^t Pease of Salem which was found with him and return^d again, being valued at £.3.10:0: Sentenced to bee whip't with twenty Stripes, and to pay unto Robert Pease Seven pounds money being the remainder of treble damages and fees of Court standing committ^d &c^a

WILLISTONE Sent^a

John Willistone convict^d by his own confession in Court of Stealing a Silver cup from m^r Eliakim Hutchinson valued at Fourteen Shillings, which is returned again: Sentanced to bee whip't with ten stripes, and to pay unto m^r Hutchinson twenty eight Shillings money being the remainder of treble damages and fees of Court standing committ^d &c^a

KNIGHT Sent^a

Julian Knight convict^d by her own confession in Court of being drunke, and entertaining of Archuball Forrest in the absence of her husband. Sentenc^d to bee whip't with ten Stripes or to pay ten Shillings money fine to the County and fees of Court standing committ^d &c^a and is forbidden giving any further entertainm^t to s^d Forrest.

FORREST Sent^a

Archuball Forrest complained of for disorderly company keeping with Julian Knight in the absence of her husband for which hee hath been formerly punished Sentenced to bee whip't with ten Stripes or to pay Forty Shillings money fine to the County and fees of Court standing committ^d &c^a and is strictly forbidden accompanying with s^d Knight.

The Court Adjourn^d to Thursday. 19. instant. at 8. a clock. [635]

The Court met by Adjournm^t 19^o Feb^{ro} 1679.@

Present

S: BRADSTREET Gov^r
EDW^d TYNG Esq^r Assist

JOSEPH DUDLEY Esq^r } Assist^s
HUMP^r DAVIE Esq^r }

[Order about EDGERTON and DAVIS]

The Court grant Liberty to Nicholas Wilmot to make Sale of John Edgerton for the Satisfying of what is due to him according to the Courts Sentence not exceeding four yeares. It's also ordered that Thomas Davis now a prison^r bee Sold for the like time for fulfilling of the Sentence of the last Court, declared ag^t him in case hee do not make payment thereof.

[See Davis Sentenced, above, p. 1098, and Edgerton Sentenced, p. 1157. The further criminal career of the two may be followed in Records of the Court of Assistants, i. 189, and S. F. 1974.]

Respit of m^{rs} BATTs Invent^o

It's Ordered that the Inventory and division of the Estate of m^{rs} Anne Batt bee respited untill April Court next And forasmuch as a considerable part of the Estate consists of a bond due from the Estate of Timothy Batt, the Adm^r of that Estate then also appeare to shew w^t is paid of that.

JN^o SMITH's fine in part remitt^d

Jn Answer to the petition of John Smith. The Court remit one halfe of his fine imposed on him by this Court and order that m^r Nowell paying his charges of apprehention and fees have liberty to take him out of prison & imploy him and to pay the five pounds to the County, the other halfe of his fine as it is earned.

Committee for CARVERS Estate

Deacon Henry Alline and Cap^{tn} Elisha Hutchinson are joined with m^r Nath. Barnes the Adm^r as a Committee to examin & take the probate of debts claimed from the Estate of Robert Carver dece^d and to make Return to the County Court.

MUNNINGS Fin^d £.4

Phillip Munnings Servant to Edward Budd convicted of gameing and abetting to value of three pounds eight Shillings money, Sentenced to pay Eight pounds money according to Law one halfe to the Jn-former, and the other halfe to the County and fees of Court standing committ^d & c^a

EVERENDEN dismis't

William Everenden bound over for the like offence, but it not being fully proved, hee was dismissed upon paying of his fees.

USHER Fin^d 40^s

Rob^t Usher convicted by his own confession in Court of entring the house of Rich^d Loft and there Stealing five Shillings in money.

Sentanced to pay Forty Shillings money fine to the County, Fifteen Shillings money to Rich^d Loft being treble damages according to Law and fees of Court standing committ^d &c^a and order that upon his Release from prison hee depart the Town of Boston, and his ma^r Greenough is permitt^d to give him entertainm^t untill there bee a conveniency of sending him away.

POLLARD Sent^a

Joseph Pollard convicted of breaking open the dwelling house of Samuel Bill in the night and stealing from him Seventeen pounds Fifteen Shillings money. Sentanced to bee branded in the forehead with the Letter B and to pay unto Sam^{ll} [636] Bill thirty five pounds ten Shillings money being y^e remaind^r of treble damages according to Law (the s^d £.17:15:0.) being return^d) and fees of Court standing committ^d &c^a

Committee for SAXTONS Estate

Jt being represented unto this Court as doubtfull whither the Estate left by Thomas Saxton late of Boston marrin^r dece^d intestate (now under the Adm^{con} of m^r Henry Dering) will prove Solvant; That there may bee an equitable proportioning the same among the Credito^{rs} The Court have ordered and stated m^r John Joyliffe Cap^{tn} Thomas Brattle and m^r Nic^o Paige a Committee to take in and examin the claims made to the s^d Estate and all the Credito^{rs} are ordered to bring in their claims unto the s^d Committee within twelve months next comming at time and place appointed by them to that end, and they to make their Return to the Court.

The Court Adjourned to Thursday next 26^o feb^r at. eight a clock.

The Court met by Adjournm^t 26^o Feb^r A^o 1679

MOSELY's Licence

m^{rs} Anne Moseley Widdow had Licence granted her to retaile wine and Liquors out of dores for one yeare next comming and her Selfe and Jsaac Addington became bound to the Treasuro^r in ten pounds apeice for her abservance of the Laws and her Licence.

BUMSTEED fin^d £.5.

Jeremiah Bumstead convicted by his own confession in Court of retailing Cider without Licence Sentenc^d to pay five pounds in money as a fine to the County according to Law and fees of Court: The Court respited the taking of this fine untill after the next Generall Court upon his good behaviour

LONEY dismis't

Loftlan Loney being accused by Kathalina Negro Serv^t of Thomas Dewer to bee the Father of a Bastard Childe born of her body about a month agoe, which is since dead, hee denying of it The Court dismis't him upon paying of his fees

KATHALINA Negro fin^d 20^s

Kathalina Negro convicted by her own confession in Court of committing Fornication and having a bastard Childe. Sentenc^d to bee whip't with Fifteen stripes or to pay forty Shillings money fine to the County and fees of Court standing committ^d &c^a Afterwards the Court remitt^d her fine to twenty Shillings.

WHALEY & RANGER fin^d

m^r Hugh Campbell making complaint to this Court of great injustice done him in the extention of an execution by Marshall Rich^d Waite upon a Judgem^t obtained by m^r James Brading and by Edmund Ranger and John Whaley apprizers in the apprizem^t of a parcel of Bookes & a trunke for Satisfaction of s^d Execution: Upon a hearing of the case The Court Sentanced s^d Marshall Richard Waite Edm^d Ranger & John Whaley to pay twenty Shillings in money apeice as a fine to [637] The County, and s^d Ranger to pay unto m^r Campbell Forty Shillings money and s^d Whaley to pay unto m^r Campbell six pounds money towards Satisfaction of his damages & fees of Court: And refer m^r Campbell to take his course in law ag^t Marshall Waite for what of his Bookes left of the s^d Apprizem^t in his hands are found wanting.

Execution issued. 19^o march. 79/80.

LILLEY'S Licence

Edward Lilley had licence granted him to retaile wine and Liquors out of dores for one yeare next comming and himselfe principall in £.10. and John Keen and Sam^{ll} minot Sureties in five pounds apeice became respectiuely bound to the Treasuro^r for his observance of the laws and Licence.

The Court Adjourn^d to Wedensday 10th march: 1679. at one a clock.

The Court met by Adjournm^t 10th March: 1679.@

RUGGLES her Estate Ordered

For Setlement of the Estate left by the late Elizabeth Ruggles of Boston widdow dece^d amounting to One hundred & twelve pounds cleer Estate (debts and charges having been deducted) The Court Orders that the s^d Estate bee thus aportioned (that is to Say) twenty eight pounds to the eldest Son as his part thereof, and Fourteen pounds apeice to the other six Children of s^d Ruggles, and the Adm^{rs} are ordered to pay out accordingly.

BLACKMAN^s Estate Ordered

For Setlem^t of the Estate of John Blackman late of Dorchester dece^d intestate, amounting to two hundred Seventy five pounds Jt is thus aportioned, between Sarah his Widdow and his nine Children, John the eldest Son to bee paid twenty pounds thereout as a debt due to him for his care and paines about the Estate, and also thirty pounds more as his double portion to bee paid unto him in Lands if hee choose it, and Fifteen pounds apeice unto the other eight Children as their portions to bee paid unto them as they come of age The Remainder of the Estate is Setled upon the s^d Sarah if Shee remain a Widdow; But in case Shee marry again then Shee is to pay ten pounds more to her eldest Son and five pounds apeice more unto her other eight Children, the Lands and houseing to stand Security for payment of the Childrens portions.

MINOT his Licence

Samuel Minot had Licence granted him to retaile wine and Lique^{rs} out of dores for one yeare next comming, and himselfe principall in ten pounds and Jn^o Keen & Edw^d Lilly Sureties in £.5. apeice became bound to the T^r for his observance of the laws & licence.

Order ab^t SHEER's thirds

The Court Orders the last Committee consisting of m^r John Peirpoint John Weld Serj^t Richard Ellice Joⁿ White Sen^r and Edw^d Morris to lay out unto Mary Sheers one third part of y^e land in Roxbury now in y^e possession of Samuel Pason sometime belonging to her former husband Peacock, according to law

The Court adjourn^d to Thursday. 18^o march: 1679/80. [638]

The Court met by Adjournm^t 18^o March. 1679/80.

Committee about WEEKES her thirds

The Court appoints Deacon James Blake, Serj^t Sam^l Clap and Jsaac Jones a Committee to Set out unto Elizabeth Mather wife of m^r Timothy Mather of Dorchester late Relict of William Weekes of Dorchester, her one third part of the Estate of her former husband W^m Weekes according to will: And s^d Blake and Clap are appointed Guardians to Sarah and Submit Weekes two of the Children left by s^d W^m untill they come of age to choose for themselves.

Setlem^t of SNELLINGS Estate reveiw^d

Upon the Reveiw of the case of the Setlem^t of the Estate of William Snelling and Margaret his wife dece^d intestate. The Court do finally assigne, the three Quarter parts of the Estate to Ann Davenport Sister of s^d Snelling in right of her Brother, and one Quarter part to William Rogers Son of the s^d margaret in right of his mother: Francis Davenport husband of the abovenamed Anne appealed from this order or Setlem^t unto the next Court of Assistants and put in Security for prosecution of his Appeale to effect.

Appeal^d

F: Davenport princip¹¹ £.50 Ant^o Checkley & Jn^o Man Sureties. £.25. p^s bound respectiue^{ly} to y^e T^r fo^r y^e County & party concern^d for prosecutⁿ to effect.

[See above, p. 1103, and Records of Court of Assistants, i. 166-7.]

COWELL discharg^d

Edward Cowell of Boston is discharged from attending upon ordinary Traynings watchings & wardings.

HARRIS her Licence

Elizabeth Harris Widdow had Licence granted her to retaile wine and Liquo^{rs} out of dores for one year next comming and her Selfe principall in ten pounds, and Moses Paine Sen^r Surety in ten pounds became bound to the T^r for the County on condicion that Shee should not transgress her licence but should observe the Laws.

The Court Adjourn^d to Thursday. 25^o march 1680.

The Court met by Adjournm^t 25^o March: 1680.@

LEWIS her Guardian

John Lewis of Dorchester is appointed Guardian to his daughter Bethiah (being under age) to receive and improve a Legacy of five pounds given her by Widdow Burge, and to give discharge to the Executo^r for the same.

CLAP his Estate Settled

For Setlement of the Estate of Nicholas Clap late of Dorchester dece^d intestate adding two hundred pounds to the Summe of the InVENTORY, which the s^d Nic^o engaged by Deed under hand and Seale to pay unto his two Sons Nathanael and Ebenezar and his daughter Hannah, the greatest part whereof hee had paid before his decease (provision being already made by agreem^t for paym^t to bee made to Anna his widdow for her thirds) The Court orders that the cleer Estate (debts having been taken out) amounting to Five hundred Fifty eight pounds four Shillings four pence bee thus proportioned among his five Children, namely to Nathaniel his eldest Son — one

hundred Eighty six pounds [639] as his double portion, and to the other four Children ninety three pounds apeice as their portion: and m^r W^m Sumner of Dorchester m^r Thomas Weld of Roxbury, and Deacon Jacob Eliot of Boston are appointed a Committee to divide and set out the s^d Estate according to the abovementioned order, and to do it with what speed may bee, making their Return to the Court, and what Estate more hereafter may appeare to bee divided in like proportion, and each party to beare a proportionable part in payment of further debts that may appeare due.

[An inventory of the estate is in S. F. 1847.]

CLAP'S Guardian

Anna Clap Widdow of Nicholas Clap late of Dorchester dece^d is allowed Guardian to the two youngest Children of s^d Clap Shee giving bond according to Law.

The Court adjourn^d to Thursday. pr^o april: 1680.

The Court met by Adjournm^t pr^o april. 1680.@

Order to ROOTES his Adm^{rs}

Ordered that Bozoun Allen and Lydia his wife Adm^{rs} of the Estate of Josia Rootes dece^d render an acc^o of their s^d Adm^{con} D^r and C^r unto the next Court of this County that there may bee a Settle^t made of s^d Estate.

This Court dissolved.

MAY to LYNDE

Hugh May of Boston Seaman personally appearing before Joseph Dudley Esq^r and Humphry Davie Esq^r Assist^s 8^o march: 1679. confessed Judgem^t against his Estate and person unto m^r Simon Lynde for ten pounds two Shillings six pence due for house Rent to bee paid in money.

as attests. Js^a Addington Cler

Execution issued. 4^o aug^o 1680.

WHITE to MOUNTFORT

John White and Mary his wife late widdow & Adm^x of the Estate of Joseph Farnum of Boston dece^d intestate personally appearing before Edward Tyng Esq^r & Humpr^o Davie Esq^r Assist^s 23. march. 1679/80. confessed judgem^t against the s^d Estate in their hands unto Henry Mountfort Attourney unto Henry Tickner and Matthew Johnson of London for thirty four pounds in money according to bill on file

as attests. Js^a Addington Cler

Execution issued 24^o march. 1679/80.

WHITE to TAYLOR

At the same time the abovenamed John White & Mary his wife Adm^x of the Estate of Joseph Farnum dece^d confessed Judgement before the abovenamed Assistants against the s^d Estate unto James Taylor for twelve pounds Eighteen Shillings five pence money due upon ball^a of acc^o

as attests. Js^a Addington Cler

Execution issued. 24^o march. 1679/80.

WHITE to JNGLIS

At the same time the abovenamed John White & Mary his wife Adm^x of the Estate of Joseph Farnum dece^d confessed Judgem^t before the same Assistants, against the s^d Estate unto James Jnglis for twenty one pounds money due upon ball^a of acc^o

as attests. Js^a Addington Cler

Execution issued. 24^o march: 1679/80. [640]

HOLLOWAY to JACKLEN

Henry Holloway of Boston Marrin^r personally appearing before Edward Tyng Esq^r and Humphry Davie Esq^r Assist^s 26^o april 1680. confessed Judgement against his Estate & person unto Edmond Jacklen of s^d Boston Glazier for the Summe of Fifty pounds money; being for so much borrowed of s^d Jacklen.

attests. Js^a Addington Cler.

Execution issued 27th april: 1680.

THACHER cont^a THACHER

Margaret Thacher Adm^x to the Estate of m^r Thomas Thacher late of Boston dece^d plaint. cont^a Ralph Thacher and Peter Thacher or either of them Defend^{ts} in an action of the case for withholding sundry goods the particulars whereof shall appeare by Accompt to the value of about Fifty pounds, with all other due damages. objection being made in behalfe of the Defend^{ts} that two persons on distinct Acco^{ts} were prosecuted in one Action. On the Question put by the Court, The plaint. declared Shee held to the Action against Peter Thacher: . . . The Jury . . . found for the plaint. That the Defend^t return the Cloake Sued for, or pay the plaint. three pounds money & costs of Court passed Nineteen Shillings and eight pence.

HUNT cont^a WARREN

Thomas Hunt or his lawfull Attourney plaint. cont^a Nicholas Warren Defend^t for non paym^t of a bill of Exch^a of. 600. crowns at. 56^d ¼ starling in England drawn or charged by Humphry Wilkins in Roven. 14^o Feb^r 1676. at two usance there taken and receiv^d of John De-Grave and by him charged on s^d Nic^o Warren in London, who accepted to pay the same accordingly, but is not paid; this with interest & damages. . . . The Jury . . . found for the plaint. one hundred ninety Seven pounds two Shillings seven pence mony & costs of Court.

These two Actions were heard and tried at the County Court in Janur^o 1679. but Judgement not entred till now according to Law: The Defend^{ts} being out of y^e Colony. [641]

LEVERETT to WINCOLL

Whereas the Hon^r^{ble} John Leverett Esq^r late of Boston in New-England dece^d at A County Court held in Boston y^e 29th Ianuary. 1677 recovered a Iudgement against Iohn Wincoll for Eighty Eight pounds five Shillings and eight pence (including costs) and whereas Cap^{tn} John Hull late of Boston afores^d dece^d in his life time paid unto m^{rs} Sarah Leverett Executrix of the last will & Testament of s^d John Leverett on behalfe and for accompt of s^d Wincoll the Sume of Sixty nine pounds & ten Shillings money, which s^d Summe was in consideration and full satisfaction of the afores^d Judgement recovered as above-

said: Therefore be it knowne unto all men by these pu^rsents that J the s^d Sarah Leverett Executrix as aboves^d have & hereby do for me my heires Exec^{rs} & Adm^{rs} fully & absolutly remise release discharge & for ever quit claim unto him the s^d John Wincoll his heires Exec^{rs} & Adm^{rs} of and from the afores^d Judgement & Sume of money thereby recovered as above specified. Witness my hand & Seale the. 21st day of April An^o Domⁱ 1684.

Sarah Leverett & a Seale

Witness Elisha Cooke Samuel Sewall.

Entred. 22nd April. 1684.

per Js^a Addington Cl^{re}

m^{rs} Sarah Leverett personally appearing on the day of the date hereof acknowledged this Instrum^t to be her act and deed.

Before me Samuel Nowell Assist.

[HAWKINS v. SHEAFE¹]

Thomas Hawkins plaint. against Sampson Sheafe Defend^t in an accion of the case for not performing his promiss which hee the s^d Sheafe made to the s^d Hawkins upon the sealing of a Mortgage, which hee gaue to him of his houses & lands, which was that hee should bee noe looser by him the s^d Sheafe, w^{ch} the s^d Sheafe hath not performed but hath damnified the s^d Hawkins one hundred & eighty pounds by selling his the s^d Hawkins housing for soe much more then what was his due & due interest & all other due damages according to Attachm^t Dated July: 23th 1673. . . . The Jury . . . founde for y^e Defend^t costs of Court.

¹ This case should follow *Rose v. Young*, p. 270, above.

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OF

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This index shows all titles of the General Laws and Liberties to which specific reference is made in the records here reprinted and in the documents and annotations. Some attempt has also been made to identify and include references of an indefinite nature to the Laws without mention of any particular title, but many such indefinite references have been omitted, especially those which evidently refer to the title Burglary and Theft and the title In-keepers, etc. The titles are taken from The Colonial Laws of Massachusetts, Reprinted from the edition of 1672, with the Supplements through 1686, William H. Whitmore, Ed. The page reference before each title is to the pages of that book of laws.

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